

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5869 of 2020**

- Yogesh Rao Son Of Shri Shankar Rao, Aged About 21 Years Resident Of Village Sandi, Police Station Arang, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Mandir Hasaud, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri C. R. Sahu, Advocate
For Respondent/State	:	Shri Alok Bakshi, Additional AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava
Order On Board

21/09/2020

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.423/2019 registered at Police Station Mandir Hasaud, District Raipur for the offence punishable under Section 363, 366, 376(2)(ढ) of the IPC and Section 6 of POCSO Act . The applicant was arrested on 19-09-2019.
2. Prosecution case is that the present applicant abducted the prosecutrix, performed marriage and committed rape on her, who is minor in age.
3. Learned counsel for the applicant would argue that even according to the prosecutrix, she and the applicant were having love affair. He submits that with regard to sexual intercourse, there are contradictory statement. In the statement recorded under Section 164 of Cr.P.C. before the Magistrate, there is nothing to show that the applicant committed rape on the prosecutrix and the medical report also does not show any sexual intercourse committed on the prosecutrix. It is next submitted that the applicant is in jail since 19-09-2019 and till date, there is no material progress in the trial as also looking to the long pre

-trial detention of the applicant, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that in the statement recored under Section 164 of Cr.P.C., the prosecutrix has made clear allegation of sexual intercourse against the present applicant. According to the prosecution, the date of birth of the prosecutrix is 27-08-2002, therefore, consent, if any, would be immaterial. He also submits that in the medical report, the prosecutrix has been found to be habitual to sexual intercourse.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the applicant is in jail since 19-09-2019, even after lapse of one year, the trial has not been concluded and prosecutrix has not been examined, therefore, at this stage, I am inclined to enlarge the applicant on bail.

6. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with one local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge