

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5835 of 2020**

- Dular Sai S/o Balkumar Aged About 21 Years Caste- Ghasiya, R/o Village Dhartipara, Outpost- Karanji, P.S. Vishrampur, District- Surajpur, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through- Police Station Vishrampur, District Surajpur, Chhattisgarh

---- Respondent

For Applicant : Shri Rakesh Pandey, Advocate
 For Respondent/State : Shri Ravish Verma, GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****05/10/2020**

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.98/2020 registered at Police Station Vishrampur, District Surajpur for the offence punishable under Section 363, 366, 376(2)(द) of the IPC and Section 4 & 6 of the POCSO Act . The applicant was arrested on 15-06-2020.

2. Prosecution case is that the present applicant abducted the prosecutrix and thereafter, committed rape on her. According to prosecution, date of birth of the prosecutrix is 30-06-2006 and therefore, on the date of alleged commission of offence, the prosecutrix was 14 years of age.

3. Learned counsel for the applicant would submit that the contents of the case diary statement and the statement recorded under Section 164 of Cr.P.C. clearly shows that the present is a case of affair between the applicant and the prosecutrix and this is a case of consent. He submits that as far as age of the prosecutrix is concerned, the prosecution documents with regard to age are highly doubtful and therefore, it cannot be said at this stage that at the time, when the prosecutrix went along with the applicant, she was minor in age. It is

also submitted that when investigation is complete, charge sheet has been filed and that the applicant is in jail since 15-06-2020 and till date, there is no material progress in the trial, 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 the prosecutrix has clearly stated in her statement recored under Section 164 of Cr.P.C., the prosecutrix has made clear allegation of forceful sexual intercourse against the present applicant. According to the prosecution documentary evidence, the age of the prosecutrix was hardly 14 years, therefore, consent, if any, would be immaterial.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material with regard to age of the prosecutrix, at this stage, I am not inclined to enlarge the applicant on bail.

6. Accordingly, the bail application is rejected.

Certified copy as per rules.

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