

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6487 of 2020**

- Dhananjay @ Rajendra Suryavanshi Son Of Dilchand, Aged About 34 Years Resident Of Village Rogda, Police Station Nawagarh, Tahsil And District - Janjgir-Champa Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Nawagarh, District Janjgir-Champa Chhattisgarh

---- Respondent

For Applicant	:	Shri Ritesh Verma, Advocate
For State	:	Shri Dinesh Tiwari, Dy.Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15/10/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.179/2020 registered at Police Station – Nawagarh, Janjgir (C.G.) for alleged commission of offences under Section 376 IPC.
2. Prosecution case is that the applicant committed rape on the prosecutrix, who is a mentally retarded lady and unable to understand.
3. Learned counsel for the applicant submits that present is a case of false implication. In the alternative, it is submitted that the prosecutrix did not raise any hue and cry at the time of alleged incident of sexual intercourse and it was only seen by her brother which was a consensual sexual act. It is next submitted that there is no clinching evidence brought on record in the charge sheet to show that the prosecutrix is mentally retarded. He further submits that the medical report does not show any evidence of any forceful sexual intercourse as no internal or external injuries have been found.

4. On the other hand, learned State counsel submits that the FIR is lodged by the brother of the prosecutrix. The prosecutrix is a lady who is differently abled and mentally retarded one. He submits that when the prosecutrix was brought before the Magistrate for recording statement under Section 164 CrPC, the Magistrate also observed that the prosecutrix appears to be mentally retarded and therefore, her statement could not be recorded. Similar is the statement made by other witnesses. It is further submitted that the medical report may not show forceful intercourse but her hymen has been shown ruptured which shows that sexual intercourse has been committed.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material and the statement that the prosecutrix appears to be mentally retarded lady, present is not a fit case for grant of bail. The application is, accordingly, rejected.

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