

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2982 of 2021

Jogendra Sahu S/o Uattam Sahu, Aged About 21 Years R/o Village Dhourabhatha,
Police Station Garapar Jungle, Tahsil Chhuikhadan, District Rajnandgaon
Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Of Police Station Gatapar, District
Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	:	Shri Tarun Dansena, Advocate
For State	:	Shri Mateen Siddiqui, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/08/2021

Heard.

1. This is the second bail application on behalf of the applicant. His earlier bail application was dismissed as withdrawn.
2. The applicant is arrested in connection with Crime No.50/2018 registered in Police Station- Gatapar, District- Rajnandgaon (CG) for alleged commission of offence under Sections 363, 366, 376 IPC and Sections 5 (a), 6 of the Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief, is that the applicant abducted and committed rape on the prosecutrix who was minor at that time.
4. Learned counsel for the applicant would submit that the applicant has been falsely involved even though he has not committed any offence whatsoever. Right from the beginning, the prosecutrix's stand has been that she had an affair with the applicant and with the consent the parents of both the sides, their

marriage has also been solemnized after she completed 18 years of age. It is submitted that the prosecutrix has been examined as also her parents, but none of them has involved the present applicant in the alleged commission of offence. No concrete evidence with regard to age has been brought in the charge sheet which, if proved, would lead to applicant's conviction only on the ground that the prosecutrix was less than 18 years of age. The applicant is in jail since 26.6.2020 and as the material prosecution witnesses including prosecutrix has been examined, at this stage, the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposed the application and submits that even though the prosecutrix and her parents have not involved the accused, but according to her mark-sheet collected during investigation, the prosecutrix was less than 18 years of age on the date when she had gone with the applicant and later on when her marriage was also solemnized and child was born.
6. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the submission that the prosecutrix has been examined and according to her, there was an affair and she married the applicant and that the evidence on the basis of which the age of the prosecutrix is sought to be proved is a mark-sheet and there is no school dakhil-kharij register or any other birth certificate proposed to be led in evidence during trial and that the applicant is in jail since 26.6.2020, I am inclined to allow the application.
7. The application is accordingly allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge