

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6845 of 2021**

Arun Chouhan S/o Sobhan Ram Aged About 19 Years Caste Chikva R/o Village Natkela, Tehsil Bagicha, Police Station, District Jashpur Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer Police Station Bagicha, District Jashpur Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Sareena Khan, Advocate.
For State	:	Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****24.09.2021**

Heard.

1. This is repeat application for grant of bail. Earlier application was dismissed on merits vide order dated 29.10.2020
2. The applicant has moved this second application for grant of bail as he is arrested in connection with Crime No.110 of 2019 registered at Police Station Bagicha, District Jashpur, Chhattisgarh for the alleged commission of offence under Sections 363, 366 & 376 (N) of the Indian Penal Code and Sections 4 & 5(L) of the Protection of Children from Sexual Offences Act, 2012.
3. Learned counsel for the applicant would argue that repeat bail application has been filed by the applicant at this state when he has remained in jail for about 1 year and 8 months, but the trial has not been completed. It is further argued that now the prosecutrix and many other prime witnesses have been examined and evidence of prosecutrix itself shows that present is a case of consensual affair with her and applicant

who was aged about 19 years at the time of commission of offence. The prosecutrix in her evidence specifically stated that she was having affair with the applicant and was living together as husband and wife. The delay in trial is not attributable by the applicant. He would next submit that present is not a case where applicant is likely to abscond or tamper with prosecution witnesses, therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned State Counsel opposes and submits that the applicant is facing trial for commission of heinous offence and he is likely to tamper with prosecution witnesses. He would next submit that at the time of commission of offence, prosecutrix was minor.
5. This Court on 29.10.2020 taking into consideration the material collected in the charge-sheet, rejected the application. However, since then 11 months have elapsed, but the trial is not concluded yet. There is no material to show that applicant is responsible for delay in trial. This Court further considered that now the prime witnesses of the prosecution including the prosecutrix as well as her father and mother have been examined, though some witnesses yet to be examined. This Court also taken into consideration submission that present is a case of consensual affair between the applicant and prosecutrix. Evidence with regard to age of the prosecutrix is yet to be led before the trial Court and the applicant stated to be 19 years of age on the date of commission of alleged offence. Further, there is no material to show that in the event of grant of bail, applicant is likely to abscond or temper any prosecution witnesses.
6. Considering the submissions of learned counsel for the parties, particularly the period of detention period, delay in trial is attributable to

the applicant, age of the applicant, prime witnesses including the prosecutrix having been examined and further the submission that present is a case of consensual affair between the prosecutrix and applicant, without commenting upon the merits of the case, I am inclined to grant bail to the applicant.

7. Accordingly, the bail application is allowed. 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 of the like amount to the satisfaction of the Trial Court on the condition that-

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Anu