

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7244 of 2021**

- Santu Kachlam, S/o Gandoram Kachlam, aged about 20 years, r/o Kalepal PS
Nenur District Narayanpur, Chhattisgarh **---- Applicant (In jail)**

Versus

- The State Of Chhattisgarh Through Police of Police Station Benur District
Narayanpur, Chhattisgarh **---- Respondent**

For Applicant	: Shri PK Tulsyan, Advocate
For Respondent/State	: Shri Ashish Gupta, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**22.11.2021**

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.58 of 2020 registered at Police Station Benur, District- Narayanpur, Chhattisgarh for the offences punishable under Sections 376 of the IPC and Sections 4 and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that applicant committed forceful intercourse with prosecutrix, aged about 12 years, due to which she became pregnant. Matter was reported to concerned Police Station by father of prosecutrix, based upon which aforementioned crime is registered against applicant.
3. Shri PK Tulsyan, learned counsel for the applicant would submit that applicant has not committed any offence as alleged against him. Prosecutrix even not made any specific allegation in her statement recorded under Section 164 of CrPC and also not supported the case of prosecution in the Court statement (Evidence). There are contradictions and omissions in her statement hence, applicant may be enlarged on bail. He also pointed out that when prosecutrix is examined before trial Court, she stated herself to be of 19 years of age. Similarly, father of prosecutrix in his court statement, stated that he has not intimated date of birth of prosecutrix as mentioned in School records.

4. Shri Ashish Gupta, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that age of prosecutrix on the date of incident was only 12 years two months. There are allegations of making forceful intercourse by applicant with prosecutrix, due to which she became pregnant. He also submits that prosecutrix in her evidence also made similar allegations and also stated that in village meeting applicant refused to accept pregnancy with his relationship. Evidence cannot be evaluated in bail proceedings, it is to the trial Court to consider and appreciate the evidence brought before the Court by the parties.

5. Prosecutrix is present through virtual mode through DLSA- Kondagaon along with her father. She submits that applicant should not be enlarged on regular bail.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations against applicant, facts and circumstances of the case, age of prosecutrix to be 12 years two months as per documents available in case diary and she became pregnant due to alleged physical relationship by applicant, and her objection raised today for grant of bail to applicant, I do not find it a fit case to enlarge applicant on regular bail.

8. Accordingly, application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE