

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 80 of 2021**

Aman Yadav S/o Santosh Yadav, Aged About 18 Years R/o Sector No.8, Street No. 22, Bhilai Nagar, District Durg Chhattisgarh, District : Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Nevai, District Durg Chhattisgarh, District : Durg, Chhattisgarh .

---- Respondent

For the Applicant	:	Shri Anurag Jha, Advocate
For the State	:	Shri Raghvendra Verma, Govt. Advocate
For the informant	:	None

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**26/02/2021**

1. Heard.
2. Case diary is available.
3. Informant was absent on 22/02/2021 though notice was served upon him.
4. This is the third bail application under Section 439 of the CrPC.
5. Earlier first bail application of the applicant was rejected by this Court vide order dated 20/03/2019 passed in MCRC No.354/2019 considering *prima facie* case against him. His second bail application was rejected by the Registry vide order dated 28/09/2020 passed in MCRC No. 5769/2020 due to non-compliance of order of this Court dated 27/08/2020.
6. Perused the case diary in connection with the Crime No. 199/2018 registered at Police Station Nevai, District Durg (C.G.) for the offence punishable under Section 363, 366 and 376 of IPC along with 5 (Tha) and 6 of POCSO Act.
7. Case of the prosecution, in brief is that on 10-9-2018 prosecutrix was below 14 years of age. She is a resident of Risali Sector, Bhilai. She and the applicant liked each other. On 10-9-2018, she and applicant were roaming for sometime at Sector 8, Bhilai, then they went in a room of friend of applicant where the applicant committed forcible sexual intercourse with her. Thereafter he committed forcible sexual intercourse with her in Maitri garden. As per true copy of the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., the applicant had committed sexual intercourse with her on her wish and will.
8. Counsel for the applicant submitted that applicant is in jail since 11/09/2018, in the case in hand there is inordinate delay in trial which is violation of Article 21 of the Constitution of India. Prosecutrix was forced by her relative with ulterior motive to get the applicant convicted. He drew my attention on certified copy of the statement of prosecutrix recorded under Section 164 of CrPC, hence applicant may be released

on bail.

9. On the other hand, counsel for the State opposes the bail application.
10. This is true that delay in trial and detention period of the accused are material factors for disposal of the bail application filed by the accused. But equally it is also true that seriousness of the offence and impact of granting bail to the accused on society are more material and important factors for disposal of the bail application filed by the accused.
11. In the case in hand *prima facie* prosecutrix was below 14 years of age on 10/09/2018 hence her consent is totally irrelevant at this stage.
12. Looking to the above mentioned facts and circumstances of the case, looking to this fact that on 10/09/2018 prosecutrix was below 14 years of age, this Court finds that this is not a fit case where the applicant may release on bail at this stage, consequently third bail application of the applicant is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde