

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9490 of 2020**

- Nagendra Sonwani S/o Lalit Sonwani Aged About 29 Years R/o Bebdi, Police Station Raghunath Nagar, Chowki, Balangi, District Balrampur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through P.S. Basantpur District Balrampur Ramanujganj Chhattisgarh

---- Respondent

For Applicant	:	Shri Sukhendra Singh, Advocate
For State	:	Shri Sushil Sahu, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****30/07/2021**

This is repeat bail application. Earlier bail application was rejected taking into consideration the material on record.

2. The applicant has been arrested in connection with Crime No.139/2019 registered at Police Station – Basantpur, District – Barampur - Ramanujganj (C.G.) for alleged commission of offences under Section 376 of IPC and Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

3. Prosecution case is that the applicant committed rape on the prosecutrix who is stated to be less than 16 years of age.

4. Learned counsel for the applicant submits that earlier, when the bail application was argued, the very material document namely DNA report was not available and not within the notice of the applicant or his counsel but later on, a copy of DNA report dated 29/02/2020 (Annexure A/3) has been received which is on the record of the Trial Court where the trial is going on. It is submitted that in that report, the applicant has not been found to be the biological father of the child born. He would submit that in view of this report, it is clear that the prosecutrix has leveled false allegations against the applicant and even though she had sexual intercourse with some other person, she has falsely

implicated the present applicant. Further submission is that the trial has not been concluded till date and the applicant has remained in jail since 20/09/2019. Therefore, at this stage, the applicant may be granted bail.

5. On the other hand, learned State counsel submits that earlier, bail application was rejected taking into consideration the material collected, version of the prosecutrix and that *prima facie*, age appears to be less than 16 years. DNA report, as stated by the applicant, is a matter of evidence and as the allegations are serious in nature, the application may be rejected.

6. It appears that earlier, when bail application was rejected, DNA report dated 29/02/2020 was not brought to the notice. The report shows that the applicant is not the biological father of the child. The allegation of the prosecutrix is that out of sexual intercourse with the applicant, she conceived.

7. Taking into consideration the submission of learned counsel for the applicant regarding false implication, trial has not been concluded till date and also that the applicant is in jail since 20/09/2019, I am inclined to grant bail to the applicant.

8. Accordingly, the 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 for 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 make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge