



NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 146 of 2021**

Manish S/o Dilharan Maravi Aged About 21 Years R/o Village- Kirari, Police Station- Akaltara, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Appellant

**Versus**

State Of Chhattisgarh The Station House Officer, Police Station- Akaltara, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondent

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| 28/09/2021 | <p>Shri Goutam Khetrapal, counsel for the appellant.</p> <p>Shri Lalit Jangde, Dy. Govt. Advocate for the State.</p> <p>Heard on IA No.1/21, application for suspension of sentence and grant of bail.</p> <p>The appellant has been convicted under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo RI for 20 years and fine of Rs.1000/- vide judgment of conviction and order of sentence dated 8<sup>th</sup> January 2021 passed in S.T. No.44 of 2019 by learned Special Judge (POCSO Act), Janjgir, District- Janjgir -Champa.</p> <p>Learned counsel for appellant would argue that in the present case, statement of the prosecutrix is apparent that it is a case of consensual affair between the prosecutrix and the appellant and as</p> |
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the marriage could not materialise, report came to be lodged.

On the aspect of age, learned counsel for the appellant would submit that in the cross-examination, father of the prosecutrix Dev Kumar Maravi (PW2) has stated that the date of birth of the prosecutrix was recorded in the school only on the basis of estimation, which makes it doubtful that the prosecutrix was minor on the date of commission of offence, particularly when no certificate of birth issued from any competent authority has been stated to be the basis for recording date of birth in the school. Therefore, it is prayed, the appellant may be released on bail.

On the other hand, learned counsel for the State opposed the application. He submits that the prosecutrix's statement is that the appellant has committed rape on her because she had not given her consent and the appellant committed repeated sexual intercourse on her over a long period until it was disclosed by the prosecutrix to her parents. He submits that the entries made in the school register have been proved by her father Dev Kumar Maravi (PW2) who has stated that on his instructions, entries were made and even though in the cross-examination at one place, he stated that date of birth was disclosed on the basis of estimation, in further cross-examination, he has stated firmly that girl was 15 years and 10 months of age at the time of lodging of FIR.

Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the statement made by father of the prosecutrix Dev Kumar Maravi (PW2) in his cross-examination with regard to age of the prosecutrix and in the absence of there being any other certificate of date of



birth or any other clinching evidence with regard to date of birth of the prosecutrix, we are inclined to allow the application.

Accordingly, the application is allowed. It is directed that the substantive jail sentence imposed upon the appellant shall remain suspended during pendency of the appeal and he shall be released on bail on his furnishing a personal bond of Rs.25,000/- along with two local sureties of the like amount to the satisfaction of the concerned trial Court, for his appearance before the concerned trial Court on **15<sup>th</sup> November 2021** and on all such further dates as may be directed by the said Court, interval being not less than six months, till final disposal of this appeal.

Sd/-  
(Manindra Mohan Shrivastava)  
Judge

Sd/  
(Vimla Singh Kapoor)  
Judge