

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C No. 3756 of 2015**

Shyam Rao Mohite @ Shanu, S/o Umashankar Mohite, aged about 23 years, R/o New Changorabhata, Shriram Nagar, P.S.- D.D. Nagar, Raipur, Civil & Revenue District – Raipur (C.G.)

---- Applicant

Versus

State Of Chhattisgarh through – P.S. Tikrapara, Raipur, District Raipur (C.G.)

---- Non-applicant

For Applicant:	Shri Syed Imtiaz Ali, Advocate
For Respondent/State:	Shri Neeraj Jain, Govt. Advocate for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****04/08/2015**

Heard.

(1) This is an applicant filed under Section 439 of the Cr.P.C. For grant of regular bail to the applicant, who has been arrested in connection with Crime No.286/2015 registered at Police Station – Tikrapara, Raipur, Distt. Raipur, for the offences punishable under Sections 363, 366 & 376 of the Indian Penal Code & Sections 7 & 8 of Protection of Children from Sexual Offences Act, 2012.

(2) Case of the prosecution is that on 29.05.2015 applicant abducted the prosecutrix and subjected her to sexual intercourse and thereby committed the aforesaid offences.

(3) Counsel for the applicant submits that the prosecutrix is a major girl and consenting party to the act of the applicant relying upon radiological age ascertained by Doctor to be 18 years. He

would further submit that the prosecutrix, in her statement recorded under Section 164 Cr.P.C. Immediately after incident i.e. on 2.6.2015, has not supported the case of the prosecution and, as such, the applicant is in jail since 30.5.2015 and, therefore, the applicant may be released on bail.

(4) On the other hand, counsel for the State submits that according to the documents, age of the prosecutrix is 17 years & six months; and the prosecutrix, in her statement recorded under Section 161 Cr.P.C. on 30.5.2015, has clearly supported the case of the prosecution.

(5) Taking into consideration the facts & circumstances of the case, in particular the facts that the radiological age ascertained by Doctor and there is variance in the prosecutrix's statement recorded under Sections 161 & 164 of the Code of Criminal Procedure; pre-trial detention and the charge sheet has already been filed; this court is of the view that it is a fit case to release the applicant on bail. Accordingly, the bail application is allowed.

(6) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-