

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7295 of 2016**

- Baliram Patel S/o Bhagwani Patel Aged About 19 Years R/o Village Pasaud, Police Station Fingeshwar, District - Gariyaband Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Station House Officer - Fingeshwar, District - Gariyaband Chhattisgarh

---- Respondent

For Petitioner	:	Shri Siddharth Rathod, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****28/11/2016**

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.105/2015 registered at Police Station Fingeshwar, District Gariyaband for the offence punishable under Section 363, 366, 376 of IPC and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 08-10-2015.

3. Case of the prosecution is that the applicant committed rape on the prosecutrix.

4. Learned counsel for applicant submits that the entire case is founded on the age of the prosecutrix, because the prosecutrix has clearly stated that she had an affair with the applicant. Learned counsel for applicant next submitted that the prosecutrix in her statement recorded under Section 164 of Cr.P.C. has clearly stated that the prosecutrix and the applicant are living together as

husband and wife. Learned counsel for applicant further submitted that the prosecutrix and her mother both have clearly stated that the the prosecutrix is aged 18 years, but the prosecution has relied upon the school register entry, in respect of which, the Head Master has stated in his evidence that at the time of making entry in the school register, the parents of the prosecutrix were not present and he does not know as to on what basis, the entry has been made.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that according to school register, the prosecutrix is less than 18 years of age.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of prosecution witnesses namely prosecutrix, her mother and Head Master of the School, who have already been examined, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. He shall appear before the trial Court regularly on each and every date, unless exempted.

Sd/-

(**Manindra Mohan Shrivastava**)

J U D G E