

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7911 of 2016

Ram Netam S/o Basant Netam Aged About 27 Years R/o Tiriyabhat, Police Station- Parpodi, District- Bemetara, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station- Parpodi, District- Bemetara, Chhattisgarh.

---- Respondent

Shri UKS Chandel, counsel for the applicant/s.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/12/2016

Heard.

The applicant has been arrested in connection with Crime No.25/2016 registered at Police Station – Parpodi, District - Bemetara (CG) for alleged commission of offences under Section 363, 366-A, 376 of IPC and Section 4, 6/5 (ठ) of the Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”).

2. Case of the prosecution is that the applicant kidnapped the prosecutrix and took the prosecutrix away to different places where he resided with the prosecutrix and committed rape on her.

3. Learned counsel for the applicant submits that even the statement of the prosecutrix under Section 164 CrPC *prima facie* shows that it is a case of affair between the applicant and the prosecutrix and both of them eloped and resided in different places until recovered. He submits that the age of the prosecutrix have been wrongly shown as minor on the basis of unreliable document of school register whereas in the ossification test, the doctor has clearly opined the age of the prosecutrix to be 17 to 18 years. He further submits that investigation is complete

and the applicant is not likely to abscond, therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that according to the school register, age of the prosecutrix is approximately 17½ years. He submits that the prosecutrix being minor in age, consent is not material. Therefore, prima facie case is made out.

5. Taking into consideration the submission of learned counsel for the parties, particularly the submission regarding there being consent of the prosecutrix and statement of the prosecutrix under Section 164 CrPC and further taking into consideration the ossification report, where the age of the prosecutrix is shown to be 17 to 18 years, the submission that the prosecutrix being major, cannot be ruled out at this stage and also that investigation is complete and charge sheet has been filed, I am inclined to grant bail to the applicant.

6. 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.20,000/- along with one local surety for 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 from appearance.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge