

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8001 of 2016

Naresh Ragde S/o Ramesh Ragde Aged About 18 Years (Not Mentioned In Order Sheet) R/o Jaikali Chowk, Bhoi Para, Police Station Azaad Chowk, Raipur District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Azaad Chowk, Raipur District Raipur, Chhattisgarh.

---- Respondent

Shri Pushkar Sinha, counsel for the applicant/s.
Shri D.R.Minj, Dy.G.A. 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.118/2016 registered at Police Station – Aazad Chowk, District – Raipur (CG) for alleged commission of offences under Section 363, 366, 376 of IPC and Section 4 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 thereafter, committed rape on her.

3. Learned counsel for the applicant submits that according to the statement of the prosecutrix under Section 164 CrPC, it is clearly a case of consent. He submits that the applicant and the prosecutrix were having an affair. They left their place and resided at Dongargarh as husband and wife and looking to the age of the prosecutrix, since the time, they started living together as husband and wife, sexual intercourse was committed by the applicant. Therefore, the applicant may be granted bail as the age of the prosecutrix being more than 18 years cannot be ruled

out.

4. On the other hand, learned State counsel opposes bail application and submits that according to the school records, age of the prosecutrix was less than 18 years when it is alleged that the applicant and prosecutrix started living as husband and wife.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission based on statement of the prosecutrix under Section 164 CrPC that it is a case of consent and further that even according to the prosecution, at the time of alleged commission of rape, the prosecutrix almost appears to have attained 18 years of age, 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