

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6347 of 2016**

- Yogesh Yadav @ Yugesh S/o Fagwa Ram Yadav Aged About 20 Years
Caste- Yadav, R/o Village- Beerbeera, Post Office & Police Station-
Arang, District- Raipur, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh S/o Through The Station House Officer, Police
Station- Fingeshwar, District- Gariyaband, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Shivendu Pandya, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****17/10/2016**

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.67/2016 registered at Police Station Fingeshwar, District Gariyaband for the offence punishable under Section 363, 366 & 376 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 23-06-2016.

3. Case of the prosecution is that the applicant kidnapped the prosecutrix who was less than 17 years of age and committed rape on her.

4. Learned counsel for applicant submits that even according to the statement of the prosecutrix recorded under Section 164 Cr.P.C., she had gone along with the applicant of her own being affair with him. It is further submitted that the missing report was lodged by brother of the prosecutrix on 16-06-2016. It is next submitted that the age of the prosecutrix is about 17 to 18 years and

even according to her statement, possibility of prosecutrix being major cannot be ruled out. It is lastly submitted that in this case, investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that even if statement of the prosecutrix is taken on its face value, age of the prosecutrix is 17 years on the alleged date of incident. It is submitted that the prosecutrix has clearly stated that she was subjected to sexual assault, in these circumstances, prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 of Cr.P.C. and that the mother and brother of the prosecutrix have submitted an affidavit before the Court below and further that the applicant is in jail since 23-06-2016, investigation is complete and charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses, 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**)

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