

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8013 of 2016

Arjun Dugga S/o Dugga, Aged About 27 Years Residing At Village Khadkagaon, Police Station Narayanpur, Revenue District Narayanpur & Civil District Kondagaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Narayanpur, District Narayanpur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri P.K. Tulsyan, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy.Govt. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/12/2016

Heard.

1. The applicant has been arrested in connection with Crime No. 78 of 2016 registered in Police Station- Narayanpur, District- Narayanpur (C.G.) for the alleged commission of offence under Sections 363, 366, 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped and thereafter committed rape on the prosecutrix who is said to be a minor.
3. Learned counsel for the applicant submits that the prosecutrix's statement recorded under Section 164 Cr.P.C. clearly makes out a case of consent between the parties. He submits that even according to prosecution, the prosecutrix was more than 17 years and 7 months of age and as per the ossification test, the age of the prosecutrix is said to be 16 to 18 years, which, as per catena of decisions, could be more or less than two years.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that as the age of the prosecutrix is less than 18 years, consent is immaterial.
5. Taking into consideration the submission made by learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C. and taking into consideration the submission with regard to possibility of prosecutrix being more than 18 years of age, the application is allowed.
6. 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 concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall 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/-
(Manindra Mohan Shrivastava)
Judge