

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6418 of 2016**

- Vikash @ Ramayan Prajapati S/o Ambala Prajapati Aged About 20 Years R/o Tinguni, Outpost Tinguni, Police Station Sarai, District Singrouli, Madhya Pradesh.

---- **Petitioner****Versus**

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

---- **Respondent**

For Petitioner	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/10/2016**

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.164/2016 registered at Police Station Surajpur District Surajpur for the offence punishable under Section 363, 366 & 376 of IPC and Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 11-06-2016.

3. As per the prosecution case, the applicant kidnapped the prosecutrix and thereafter taken away from the custody of her parents and she was taken to different places, where she kept the prosecutrix and committed rape on her.

4. Learned counsel for the applicant would submit that the statement of the prosecutrix recorded under Section 161 & 164 of Cr.P.C. clearly discloses that the prosecutrix had gone along with the applicant and stayed at different places for months together, which is clearly indicative of there being consent between

the parties. It is submitted that as far as age of the prosecutrix is concerned, according to prosecution, the age of the prosecutrix is more than 17 years. It is submitted that as per school record, there is no specific disclosure as to by whom such date of birth has been recorded and no ossification test has been conducted and therefore, possibility of prosecutrix being aged 18 years cannot be ruled out.

5. On the other hand, learned State counsel opposes the prayer for grant of bail on the submission that as per school record, the age of the prosecutrix is 17 years & six months and during that time, she was kidnapped and taken to different places and committed rape on her, therefore, 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 161 & 164 of Cr.P.C. and further taking into consideration the submission of learned counsel for the applicant that no ossification test has been conducted and according to school records, age of the prosecutrix nearer to 18 years, I am inclined to release the applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(**Manindra Mohan Shrivastava**)
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