

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7223 of 2016

- Manoj Kumar Yadu S/o Ramesh Yadu Aged About 30 Years R/o Bagtarai, Thana Lalbag, District Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Thana Arjunda, District Balod, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Sameer Singh, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

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

Order On Board

15/11/2016

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.175/2016 registered at Police Station Arjunda, District Balod for the offence punishable under Section 363, 366 & 376 of IPC and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 02-09-2016.

3. Case of the prosecution is that the applicant and other co-accused kidnapped the prosecutrix, a minor girl, aged less than 18 years and thereafter, it is alleged that rape was committed on her by the co-accused.

4. Learned counsel for applicant submits that even according to the statement of the prosecutrix recorded under Section 164 Cr.P.C., it reveals that it is a case of affair between the prosecutrix and the co-accused and the allegation against the applicant is that the applicant, to some extent, also

accompanied the co-accused. He further submits that even according to the prosecution and Radiologist Report, the age of the prosecutrix is shown to be 18 years, therefore, at this stage, when investigation is complete, charge sheet has been filed and the applicant is in jail since 02-09-2016, the applicant may be granted bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that according to school records, the prosecutrix was aged 17 years and 10 months i.e. less than 18 years. It is further submitted that the applicant had accompanied the other co-accused in kidnapping the prosecutrix, therefore, prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, totality of the circumstances, particularly taking into consideration the Radiologist report and the submission of learned counsel for the applicant that the prosecutrix had an affair with the co-accused and she is a consenting party and there is no allegation against the applicant and further that the investigation is complete, charge sheet has been filed and the applicant is not likely to 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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