

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7767 of 2016

Heeralal S/o Tijauram Markande Aged About 26 Years R/o Bagtarai, Thana-
Lalbag, District- Rajnandgaon, Chhattisgarh

---- Applicant

Versus

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

---- Respondent

For Applicant	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy. G.A.

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

Order On Board

15/12/2016

Heard.

1. The applicant has been arrested in connection with Crime No.175 of 2016 registered in Police Station- Arjunda, District Balod for the alleged commission of offence under Section 363, 366-A/34, 376 of IPC and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the applicant kidnapped and committed rape on the prosecutrix on the pretext that he will marry her. The prosecutrix is stated to be 17 years and 10 months of age as per the school register.
3. Learned counsel for the applicant argued that present is a case of consent and the co-accused has already been granted bail by this Court taking into consideration that even according to the statement of the prosecutrix recorded under Section 164 Cr.P.C., it is a case of consent. Learned counsel for the applicant also submits that according to the ossification test and the report of radiologist, the prosecutrix is stated to be

between 18 to 20 years of age, therefore, looking to this background of the age that the prosecutrix appears to be more than 18 years of age and is a case of consent, the applicant may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application and submits that the applicant is being tried for commission of offence, therefore, if the applicant is released, he is likely to abscond or tamper with the prosecution witnesses.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material available with regard to the age of the prosecutrix, radiologist report and the submission that the prosecutrix statement recorded under Section 161 and 164 Cr.P.C., prima facie makes out a case of consent between the parties and charge-sheet has also been filed and there is no material to show that if the applicant is granted bail, he may flee away from justice and also tamper with the prosecution witnesses, 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