

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1978 of 2017

- Babulal Yadu S/o Thanuram Yadu, Aged About 21 Years R/o Village- Bijabhat, Police Station & Distt- Bemetara, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through, Station House Officer, Police Station -Dadhii, Distt. Bemetara, Chhattisgarh

---- Respondent

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/04/2017

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.78/2016 registered at Police Station Dadhi, District Bemetara for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 22-05-2016.

3. Case of the prosecution is that the applicant committed rape on the prosecutrix, who is stated to be minor in age.

4. Learned counsel for applicant submits that in the present case, the applicant is in jail since 22-05-2016 and the trial has not been concluded till date. It is next submitted that the statement of the prosecutrix shows that the prosecutrix is a consenting party and there is a serious dispute with regard to age of the prosecutrix because according to the evidence of the prosecutrix's mother, age of the prosecutrix is more than 18 years on the date of alleged commission of offence.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that as per relevant information received from school records, the date of birth of the prosecutrix is 08-08-1999, therefore, it is essentially a matter of appreciation of evidence and it cannot be said at this stage that the prosecutrix is more than 18 years of age.

6. Taking into consideration the submission of learned counsel for the parties, looking to the age of the prosecutrix, I am not inclined to grant bail to the applicant.

7. Accordingly, the bail application is rejected. However, it is directed that in case, the trial is not completed within a period of three months, the applicant would be at liberty to revive his prayer.

Sd/-

(**Manindra Mohan Shrivastava**)

J U D G E