

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6172 of 2017

- Shailendra Banjare S/o Shri Ashok Banjare Aged About 23 Years R/o Village Narra, Police Station And District Balod, Chhattisgarh.

---- Petitioner

Versus

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

-- Respondent

For Petitioner : Shri Anil Gulati, Adv.
For Respondent/State: Shri Satish Gupta, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/11/2017

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.139/2017 registered at Police Station Balod, District Balod for the offence punishable under Section 363, 366 & 376 of IPC and Section 5 (२) & 6 of Protection of Children from Sexual Offences Act, 2012.

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

4. Learned counsel for the applicant submitted that even according to the statement recorded under Section 164 of Cr.P.C. of the prosecutrix, she is a consenting party and she had an affair with the applicant and lived along with the applicant. It is next submitted that looking to the age of the prosecutrix, as recorded in the school records, it is highly doubtful whether she is major or minor.

5. On the other hand, learned State counsel submits that as per the school records, the prosecutrix was less than 18 years of age on the date of incident, therefore, consent has no meaning.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material with regard to age of the prosecutrix, I

am not inclined to grant bail to the applicant.

7. Accordingly, the application is rejected.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E