

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8388 of 2016

Vedprakash Kaushal S/o Late Ganpat Ram Kaushal, Aged About 20 Years R/o Mahamaya Chowk, Ghuteli, Police Station - Pathariya, District Mungeli Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station - Gariyaband, District Gariyaband Chhattisgarh

---- Respondents

Smt. Indira Tripathi, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/01/2017

Heard.

The applicant has been arrested in connection with Crime No.53/2016 registered at Police Station – Gariyaband, District – Gariyaband (CG) for alleged commission of offences under Section 366, 376, 120-B of IPC and Section 6, 16 of the Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”).

2. Case of the prosecution is that the applicant subjected the prosecutrix to rape ever since the time she was minor in age being less than 18 years.

3. Learned counsel for the applicant submits that false case has been registered against the applicant. The police, in the entire charge sheet, has not collected any authentic material like school certificate or entries of *dakhil kharij* register or any other certificate of proof of age of the prosecutrix. It is submitted that according to the prosecutrix herself, she has stated that she was 20 years old on the date when statement under Section 164 CrPC was recorded. It is further submitted that in the statement under Section 161 CrPC, it has been stated that

the date of birth of the prosecutrix is 01/05/1997. It is further submitted that there is no specific date or from which date, the prosecutrix was subjected to any sexual intercourse by the applicant and the report has been lodged after four years. Therefore, this is a case of false implication and the applicant may be granted bail as he is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned State counsel opposes bail application and submits that according to the statement of the prosecutrix, she had an affair with the applicant and she has stated that during affair of the applicant with the prosecutrix, prosecutrix was subjected to sexual intercourse, that means for the last four years, which included the period of minor age of the prosecutrix. Therefore, case of offence is made out.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission that the report has been lodged in the month of April, 2016 when the prosecutrix stated to be about 20 years of age and even in the statement under Section 164 CrPC, it has not been stated as to on which date or commencing from which date, the prosecutrix was subjected to sexual intercourse and further taking into consideration that the prosecutrix attained the age of 18 years, two years before the date of her statement recorded under Section 164 CrPC, I am inclined to grant bail to the applicant as the investigation is complete, charge sheet has been filed and that he is not likely to abscond or tamper with the prosecution witnesses.

6. Accordingly, the application is allowed. 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 Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge

