

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.5945 of 2017

- Pankaj Sao S/o Heeralal Aged About 21 Years R/o Village Baroli, Police Station Basna, District- Mahasamund, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station: Basna, District- Mahasamund, Chhattisgarh

---- Respondent

For Petitioner	:	Shri G. I. Sharan, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/11/2017

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.273/2016 registered at Police Station Basna, District Mahasamund for the offence punishable under Section 376, 506-B of IPC.

3. This is a second application for grant of bail. Earlier bail application was dismissed as withdrawn.

4. Case of the prosecution is that the applicant committed sexual intercourse with the prosecutrix and it is alleged that as the prosecutrix was minor, the applicant was involved in the alleged commission of offence.

5. Learned counsel for the applicant would submit that from the beginning, the applicant is raising an issue of juvenility, because according to statement and the FIR, the incident is alleged to have taken place 3-4 years before the date of FIR and at that time, the applicant was also minor being less than 18

years, therefore, he could be subjected to proceedings under the Juvenile Justice (Care and Protection of Children) Act, 2015 and could not be tried as an adult. Aggrieved by the order rejecting petitioner's plea to try as a juvenile, criminal revision was preferred before this Court, in which, this Court had stayed the trial proceedings vide order dated 27-07-2017 passed in Cr.Rev.No.528 of 2017. The applicant is in jail for the last 13 months and the trial is not likely to be concluded, because trial itself has been stayed by this Court and the issue of juvenility is under serious consideration, therefore, it is prayed that the applicant may be granted bail.

6. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that irrespective of issue of juvenility, the statement of prosecution witnesses would show that the applicant subjected the prosecutrix to sexual intercourse 3-4 years before the date of lodging of FIR by the applicant.

7. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the issue of juvenility is under consideration before this Court in Cr.Rev.No.528 of 2017 and trial has already been stayed by this Court and further taking into consideration that the applicant is in jail for the last 13 months, I am inclined to grant bail to the applicant.

8. Accordingly, the application is allowed. 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 on the condition that he shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E

