

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8055 of 2016

Akash Sharma S/o Late Ashok Sharma Aged About 42 Years Resident Of S F / 696 C S E B Colony East, Outpost Rampur, Police Station Kotwali, District Korba Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through In - Charge Officer Of Outpost Rampur, Police Station Kotwali, District Korba, Chhattisgarh

---- Respondent

For Applicant	:	Shri R.S. Marhas, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy. Govt. Advocate

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

Order On Board

10/01/2017

Heard.

1. The applicant has been arrested in connection with Crime No. 211 of 2016 registered in Police Outpost – Rampur, Police Station- Kotwali, District-Korba , Chhattisgarh, for the alleged commission of offence under Sections 363, 368, 376, 376-D, 370, 370-A, 372 and 201 read with Section 34 IPC, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. Case of the prosecution, in brief, is that the applicant and other co-accused were instrumental in sexual exploitation of the prosecutrix who is said to be a minor being less than 18 years.
3. Learned counsel for the applicant submits that even according to prosecution, she herself came into prostitution and it is not a case of rape. He submits that the applicant is being involved in the alleged commission of offence with the aid

of provision contained in the POCSO Act on the ground that the prosecutrix is less than 18 years of age which itself is a matter of serious doubt because, as against the prosecutrix's date of birth as 17.6.1999 recorded in the birth certificate and dakhil kharij register, in the first ossification test carried out in the month of October, 2016. she is stated to be around 20 years of age and other conducted in the month of December, 2016, she is stated to be 18-20 years of age with margin of less than or more than 2 years at both side. It is also submitted that the applicant being a Journalist, the station house officer of the concerned police station had an axe to grind against him because he had published various news articles against malfunctioning of police administration and in this background, the applicant's name has been falsely included which was not there in the statement before the Child Welfare Committee on 29.7.2016.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the bail application of the other co-accused who are alleged to have sexually exploited the prosecutrix have been rejected by this Court. He further submits that according to the records, the date of birth of the prosecutrix is 17.6.1999 and the incident is alleged to have happened sometimes in the month of January, 2015 and at that time, the age of the prosecutrix was even less than 16 years of age. Therefore, even if the ossification test is taken into consideration at this stage, at the time of alleged commission of offence, the prosecutrix was definitely less than 18 years of age. Therefore, the applicant is not entitled for grant of bail.
5. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration that the bail application of other co-accused who are alleged to have sexually exploited the prosecutrix and subjected her to prostitution have been rejected, I am not inclined to grant bail to the applicant.
6. The application is therefore rejected.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge