

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 256 of 2017

- Pankaj Sao S/o Heeralal, Aged About 21 Years R/o Village: Baroli, Police Station: Basna, District: Mahasamund, Chhattisgarh.(Not Mentioned The Detail Of Applicant In The Order Sheet) -- **Applicant**

Versus

- State of Chhattisgarh through Station House Officer, Police Station-Basna, District-Mahasamund , Chhattisgarh.(Not Mentioned the Detail of Non-Applicant In the Order Sheet)

For the applicant	:	Mr. Gurudev Sharan, Advocate
For the Respondent	:	Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.04.2017

1. A perusal of the impugned order dated 16.02.2017 would show that the FIR was lodged by the victim on 11.10.2016. It further shows that the applicant has claimed that his date of birth was 05.07.1995 and since it is stated that the commission of sexual intercourse took place prior to 3-4 years, therefore, as per the claim of the applicant, on the date of incident, the applicant would be 17 years and few months and he is minor. Therefore, it is prayed that the order of the trial Court be set aside.
2. Perused the FIR. It would show that the victim had made the report on 11.10.2016 that prior to 3 to 4 years, the applicant on the pretext of marriage has committed sexual intercourse. Since the date of birth of the applicant is shown to be 5.07.1995, therefore, on the date of FIR, the age of the applicant would be 21 years 3 months and six days. Consequently as per the prosecution case if 3 years prior to

the date of FIR is taken into account, then in such a case, the applicant cannot be held to be minor. However, if the incident is said to have been taken place 4 years back, then in such a case, the applicant would be minor. The FIR and the statement of victim on the face value at this stage cannot be accepted as gospel truth that at the time of incident, the applicant was minor and it can only be ascertained and prospected after the prosecutrix is examined as to before how many years back from the date of lodging of FIR, the incident took place. If it is found that before 4 years from the date of FIR, the incident happened, the applicant would be at liberty to raise the minority before the Court below.

3. With the above observation the petition stands disposed.

**Sd/-
GOUTAM BHADURI
JUDGE**