

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5443 of 2017

Rajat Jadhav S/o Deepak Jadhav Aged About 22 Years R/o Qr. No. 2 - B, Street Avenue A, Sector - 10 Bhilai, Police Station Sector - 6, Kotwali, District Durg Chhattisgarh. Permanent Address Sangam Ner, Shivaji Nagar, Police Station Sangam Ner, District Ahmad Nagar Maharashtra.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Out Post Jevra Shirsha, Police Station Pulgaon, District Durg Chhattisgarh.

---- Respondent

Shri Mateen Siddiqui, counsel for the applicant/s.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/11/2017

Heard.

The applicant has been arrested in connection with Crime No.199/2017 registered at Police Station – Pulgaon, District - Durg (CG) for alleged commission of offences under Section 376 of IPC and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that the applicant committed rape on the prosecutrix who is stated to be minor in age.

3. Learned counsel for the applicant argued that the allegations are false and fabricated. The mobile messages, copy of which have been placed on record shows that the applicant and the prosecutrix had an affair and it was because of repeated calls and insistence of the prosecutrix that the applicant reached the house of the prosecutrix. It is further submitted that the alleged overt act of the applicant does not amount to commission of offence of rape. He submits that the Radiologist has opined that the prosecutrix is 18-19 years of age. It is further submitted that

investigation is complete and charge sheet has been filed, therefore the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that according to the school records and the statements of the parents of the prosecutrix, the prosecutrix was 16 years of age at the time of alleged incident. He submits that in view of the provisions contained in Section 375 (b) of IPC, the alleged overt act of the applicant with the prosecutrix would amount to commission of rape. He would further submit that the prosecutrix has not stated that the applicant committed the act with her consent but she has clearly stated that the applicant by use of force and by grabbing her mouth, committed the criminal overt act.

5. Considering the submission of learned counsel for the parties, material on record and statement of the prosecutrix, I am not inclined to grant bail to the applicant.

6. The application is accordingly rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge