

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1169 of 2017

- Rajeshwar Yadav S/o Ramkumar Yadav, Aged About 26 Years
R/o Village Parsada, Bharni, Police Station Chakarbhata,
Tahsil Takhatpur, District Bilaspur Chhattisgarh -- **Petitioner**

Versus

- State of Chhattisgarh through Police Station Chakarbhata,
District Bilaspur Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Devesh Chand Verma, Advocate
For the State	:	Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.05.2017

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 201/2016 registered at P.S. Chakarbhata, Distt. bilaspur (C.G) for the offence punishable under Sections 376 IPC read with Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. The first bail application was dismissed as withdrawn on 02.11.2016 with liberty to repeat the same after examination of the prosecutrix.
3. As per the prosecution case, on 20.06.2016 a report was lodged by the victim that on 18.04.2016 the applicant on the pretext of marriage has committed forcible sexual intercourse and subsequently refused to marry her.
4. Learned counsel for the applicant would submit that the victim and the applicant were in love affairs which is evident from the statement of victim and despite the doctor's advice, no X-Ray report was obtained to ascertain the age. It is

stated that she was a consenting party, therefore, the applicant may be enlarged on bail.

5. On the other hand, learned State Counsel opposes the prayer.
6. Perused the statement of prosecutrix wherein it is shown that she is aged about 17 years. Therefore, at this stage, it would not be proper for this Court to give a finding on the age of the prosecutrix, whether she was minor or major on the date of incident in absence of any other facts as it would amount to usurping the power of trial Court. Therefore, I am not inclined to allow this bail application. Accordingly, it is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**