

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2621 of 2017

Virendra Vadde S/o Sukdhar Vadde, Aged About 22 Years Residing At Village Dongripara Gadbengal, Police Station Narayanpur, Tahsil Narayanpur, District Narayanpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Narayanpur, District Narayanpur, Chhattisgarh.

---- Respondent

Shri Pravin Kumar Tulsyan, counsel for the applicant/s.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/05/2017

Heard.

The applicant has been arrested in connection with Crime No.61/2016 registered at Police Station – Narayanpur, District - Narayanpur (CG) for alleged commission of offences under Section 376 of IPC and Section 6 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 less than 18 years.

3. Learned counsel for the applicant submits that the prosecutrix and most of the prosecution witnesses, ten in number, have been examined by the Trial Court which includes her parents also. He further submits that the prosecutrix and her parents who have been examined during trial have submitted that the prosecutrix was around 20 years of age at the time of incident and the prosecutrix has clearly stated that it is a case of consent because she herself has stated that she and the applicant had an affair, therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that the date of birth of the prosecutrix as recorded in the school certificate shows that on the date of alleged commission of offence, the prosecutrix was less than 18 years of age. He further submits that even according to the doctor, the prosecutrix stated to be less than 18 years of age to which learned counsel for the applicant submits that the doctor himself has stated in the examination that on assessment of the age of the prosecutrix by Radiology examination, the proximity could be three years on upper and lower side both.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that even according to the prosecutrix, the prosecutrix and the applicant had an affair and the applicant has an arguable issue regarding age of the prosecutrix as to whether she was minor or major on the date of incident and that most of the important prosecution witnesses including the parents, prosecutrix, doctor and the records, all have been examined, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

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

