

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.110 of 2018

Aashirwad Prateet, S/o Vinod Kumar, aged about 29 years, R/o Bada Jamda, Police Station Guma, District Shibhum (Jharkhand), Present address : Dena Bank Bagbahra, Police Station Bagbahra, District Mahasamund, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station Bagbahara, District Mahasamund, Chhattisgarh

--- Respondent

For Applicant	:	Shri Gurudev I. Sharan, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

24.1.2018

1. The revision is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 8.1.2018 passed by the Additional Sessions Judge (FTC), Mahasamund in Special Criminal Case No.H-16 of 2017 rejecting the application preferred by the Applicant under Section 311 of the Code of Criminal Procedure.
3. On a report made by the prosecutrix, after investigation, a charge-sheet for offences punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act has been filed against the Applicant. Evidence has been recorded by the Trial Court and even the statement of the Applicant under Section 313 of the Code of Criminal Procedure has been recorded on 8.11.2017. The Applicant was given time to adduce evidence in his defence, but he

did not lead any evidence in his defence. Therefore, on 22.11.2017 the Trial Court closed the opportunity of the Applicant for leading evidence in his defence. Thereafter, the Applicant has preferred an application under Section 311 of the Code of Criminal Procedure on 6.12.2017 on the ground that the prosecutrix and Preetpal Singh have a joint account in Dena Bank in which the date of birth of the prosecutrix is mentioned as 4.10.1993 and to prove the same the Applicant wanted to call the Bank officials for examination vide the application under Section 311 of the Code of Criminal Procedure, but the said application has been rejected by the impugned order. Hence, this revision.

4. Learned Counsel appearing for the Applicant submitted that the said Bank account has been opened in the year 2013 in which the date of birth of the prosecutrix is mentioned as 4.10.1993. This fact came to the knowledge of the Applicant later, therefore, he submitted the application under Section 311 of the Code of Criminal Procedure at the stage of final arguments in Special Criminal Case No.H-16 of 2017, but the Trial Court has rejected the said application only on the ground of belated filing of the application, but grant of relief prayed in the said application is essential for putting his defence.
5. Learned Counsel appearing for the State supported the impugned order.
6. A perusal of the material available on the record of the criminal revision reveals that the aforesaid joint bank account details of the prosecutrix has been submitted along with the application under Section 311 of the Code of Criminal Procedure in which the date of

birth of the prosecutrix is mentioned as 4.10.1993. This appears to be a material document with regard to the age of the prosecutrix. Therefore, it would be in the interest of justice to afford an opportunity to the Applicant for leading evidence of the concerned officials of Dena Bank in which the aforesaid joint account of the prosecutrix has been opened.

7. Having regard to the material available, the Applicant is afforded an opportunity to lead evidence of the concerned officials of Dena Bank in which the joint account of the prosecutrix is opened and the Applicant shall not be at liberty to lead any other evidence.
8. With the aforesaid direction, the revision is disposed of.
9. A copy of this order be sent to the Trial Court forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge