

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3062 of 2018**

Raju @ Champu Nirmalkar S/o Kisan Nirmalkar Aged About  
23 Years Village Pahanda, Tehsil Arang, District Raipur,  
Chhattisgarh. ---- **Applicant**

**Versus**

State of Chhattisgarh Through Station House Officer Police  
Station Arang, District Raipur, Chhattisgarh. ---- **Respondent**

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| For the applicant | : | Mr. Harshad Vyas, Advocate |
| For the State     | : | Mr. Anil S. Pandey, G.A.   |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order on Board**

**30.05.2018**

1. This is first bail application filed u/s 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 357/2014 registered at police station- Arang, District- Raipur (C.G.) on the allegation of having committed offence under section 363, 366, 376 (2) of IPC read with section 6 of the Protection of Children from Sexual Offences Act.
2. The case of the prosecution is that the applicant kidnapped and committed rape on the prosecutrix who is stated to be a minor.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated, he and the prosecutrix had an affair and they have performed marriage and thereafter they are residing together as husband and wife and they have also an issue. It is next submitted that the prosecutrix and her mother who have been examined during trial have not

supported the case of the prosecution and it has been stated by them that at the time when the prosecutrix went along with and married, she was 19 years of age. In her statement, she has stated that her age was wrongly written in school records.

4. On the other hand, learned State counsel opposes and submits that as according to the school records, the age of the prosecutrix was less than 18 years on the date when she was taken away by the applicant, consent is immaterial.
5. Taking into consideration the submission of the learned counsel for the parties perusing the case diary and further taking into consideration the submission that the prosecutrix has stated herself to be 19 years of age when she had gone along with applicant and that she has stated that her age was wrongly recorded in the school records and further that the mother of the prosecutrix also stated that at the time when the prosecutrix went along with the applicant she was 19 years of age, I am inclined to allow this bail application.
6. Accordingly, the applicant is granted bail and he shall be released on bail on his furnishing a personal bond in sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial court for his appearance before the said court as and when directed.
7. Cc as per rules.

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