

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7707 of 2017

Tofaan Manhare S/o Omprakash Manhare Aged About 20 Years R/o Village
Dotapar, P. S. City Kotwali, Baloda Bazar, District Baloda Bazar Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station City Kotwali, Baloda Bazar,
District Baloda Bazar Chhattisgarh

---- Respondent

For Applicant	:	Shri Adil Minhaj, Advocate
For Respondent/State	:	Shri Avinash Singh, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/01/2018

Heard.

1. The applicant has been arrested in connection with Crime No.334 of 2016 registered at Police Station- City Kotwali, Baloda Bazar, District Baloda Bazar (CG) for the alleged commission of offence under Section 376(2) g, 506 of IPC & Section 4 & 6 of Prevention of Children from Sexual Offences Act & Section 67(A) of Information Technology Act.
2. Case of the prosecution is that the applicant and co-accused committed rape on the prosecutrix who is stated to be minor at the time when the alleged offence was committed.
3. Learned counsel for the applicant would submit that the story of the prosecutrix is highly improbable and not at all reliable. According to him, the prosecutrix lodged report on 20.08.2016 i.e. 1 ½ years after the alleged incident of rape committed on her by the applicant and co-accused Rishi. The prosecutrix attained majority in March, 2015 whereas she alleges that incident to have happened 1 ½ years before and there is no explanation offered by her as to why report was not lodged for 1 ½ years. Next submission is that the prosecutrix and material prosecution witnesses have been examined by the trial Court and the statement of the prosecutrix shows

that it is very shaky and in her cross-examination, she admitted that in all three occasions, she did not meet with the present applicant, which shows that the allegations are mostly against the co-accused Rishi and not the present applicant, the applicant is in jail since 21.08.2016, therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes the prayer by submitting that according to the FIR and the case diary statement of the prosecutrix which is also affirmed by her in her examination in the Court, the applicant and co-accused Rishi both had raped her 1 ½ years before the date of lodging of FIR. He would submit that though at the time of lodging of FIR, prosecutrix was major as alleged incident happened 1 ½ years at that time when she was minor, therefore, a prima facie case is made out. He would submit that the prosecutrix has stated that the applicant and co-accused threatened her that video clipping of obscene scenes taken by them would be circulated. Therefore, she could not report early.
5. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration that the prosecutrix and material prosecution witnesses have already been examined in the Court, the delay in lodging FIR and that the FIR was lodged when the prosecutrix had attained majority, I am inclined to grant bail to the applicant. Therefore, the application is allowed.
6. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge