

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2956 of 2019**

Umashankar @ Om S/o Rajendra Kumar Jangde Aged About 19 Years
 R/o Jhara, Police Khallari, District Mahasamund, Present Address
 Bajaj Mitti Khadan Ravanbhata, Mandir Hasoud, Raipur District Raipur
 Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Mandir Hasoud, District
 Raipur Chhattisgarh., District : Raipur, Chhattisgarh .

---- Respondent

For the Applicant
 For the State

Shri Syed Imtiyaz Ali, Advocate
 Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**18/06/2019**

1. Allegedly informant Smt. Janki Yadav present. After putting some questions this Court is satisfied that woman who is present in the Court is the informant-mother of the prosecutrix.
2. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 21/01/2019 in MCRC No. 8751/2018.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.164/2018 registered at Police Station Mandir Hasaoud, District Raipur (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC & Section 4,8 and 12 of POCSO Act.
4. Case of the prosecution, in brief is that on 17/05/2018 the age of prosecutrix was below than 15 years. She is resident of village Mandirhasoud. Prior 08 months of her statement recorded under Section 161 of CrPC, the applicant committed forcible sexual intercourse with her. On 17/05/2018 at near the salvaged and scrap shop of Sandeep, the applicant took her by pulling to village Jhaara and he committed sexual intercourse with her.
5. Counsel for the applicant submits that age of the prosecutrix is not proved. He drew my attention on the certified copy of statements of PW-2 Sharad Kumar Sharma and PW-3 Smt. Janki Yadav, therefore, he may be released on bail.
6. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
7. Informant submitted that applicant may be released on bail.
8. Aforesaid facts regarding age of the prosecutrix raised by the counsel for the applicant are the subject matter of the scrutiny of evidence, which this Court cannot go at this stage.

9. As per the certified copy of the statement of the prosecutrix she had stated against the applicant in the examination-in-chief.
10. Looking to the above mentioned facts and circumstances of the case, looking to this fact that on 17/05/2018 prosecutrix was below 16 years of age, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde