

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 257 of 2020

Vidhyadhar Sagar, S/o Shri Jagendar Singh, Aged About 21 Years, R/o Village Khadgaon, Thana- Dharamjaygarh, District : Raigarh, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through The Police Station- Dharamjaygarh, District : Raigarh, Chhattisgarh

---- Respondent

For Applicant/s	:	Shri Abhyuday Singh, Advocate
For State	:	Shri Sudeep Verma, Dy. G.A.

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

Order On Board

23.06.2020

Heard.

The applicant is apprehending his arrest in connection with Crime No.47/2019 registered at Police Station – Dharamjaygarh, District – Raigarh, (CG) for alleged commission of offence under Sections 376 and 493 of the IPC.

2. Prosecution allegation is that the applicant by misleading the prosecutrix a minor took her away by stating that, he will marry her, committed rape on her. According to the prosecution, the girl is a minor and had not been completed age of 18 years on 28.03.2019, when she was taken away by the applicant to different places and subjected to sexual intercourse.

3. Learned counsel for the applicant would argue that from the statement given by the prosecutrix her self, present is clearly a case of love affair between the applicant and prosecutrix. He would submit that though the prosecution has come with the case that the date of birth of the prosecutrix is 17.05.2001, according to Adhar Card entries the date of birth of the prosecutrix is 01.01.2001 and, therefore, on 28.03.2019 the prosecutrix had attained majority of 18 years. He further submitted that now the applicant and prosecutrix are residing together as husband and wife which is clear from the affidavit by the prosecutrix herself.

4. On the other hand, learned State counsel opposes and submits that the prosecutrix in her 164 Cr.P.C. statement has clearly stated that the applicant misled her on the assurance of marriage, had taken her away on different places and entered into sexual relations. According to learned counsel for the State, consent is immaterial because as per documents available with the Investigating Officer, the date of birth of prosecutrix is 17.05.2001 and the entries made in the Adhar Card cannot be defined as authentic declaration of date of birth, as compared to the school admission register, the recording of date of birth is 17.05.2001.

5. After hearing learned counsel for the parties and the statements under Section 164 Cr.P.C. of the prosecutrix, it is *prima facie* apparent that applicant and prosecutrix had an affair and they had left their respective houses and went to Bangalore. According to prosecutrix, this happened on 28.03.2019. The prosecutrix statements shows that the sexual intercourse was committed after 28.03.2019.

6. Considering the overall circumstances, particularly that the age of the prosecutrix, even according to the State was bordering the age of majority and that present appears to be a case of love affair, therefore, I am inclined to grant anticipatory bail to the applicant.

7. Accordingly, this application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions -

(i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;

(ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

(iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that 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