

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5581 of 2020**

- Harikrishna Raut Rai Alias Lalu, S/o Chabinder Raut Rai, Aged About 24 Years R/o Thethwarpara, Jamul, Police Station Jamul, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through District Magistrate, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Shriya Mishra, Advocate.
For State	:	Mr. Gagan Tiwari, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/10/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.42/2020 registered at SHO, Police Station- Jamul, District Durg, C.G. for the offence under Sections 363, 366-A, 376(2)(n), 195-A & 34 of IPC and Sections 5(२) & 6 of POCSO Act.
2. Prosecution case is that the applicant abducted and committed rape on the prosecutrix. Prosecutrix is stated to be minor in age.
3. Learned counsel for the applicant would argue that the prosecutrix own statement under Sections 164 and 161 Cr.P.C. clearly makes out that the prosecutrix had accompanied the applicant and they married also. Next submission is that the statement of the prosecutrix further shows that even physical relations were consensual in nature and therefore, looking to the material with regard to age that she had completed 17 years on the alleged date, when she went along with the applicant, the applicant may be granted bail.
4. On the other hand, learned State Counsel opposes and submits that so-called

consent of the prosecutrix is immaterial because as per the clinching documentary evidence collected during investigation, date of birth of the prosecutrix is 15.11.2002, meaning thereby in the month of January, she is hardly 17 years of age.

5. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration the material with regard to age of the prosecutrix and that in such a case, consent if any, could be immaterial, present is not a fit case for grant of bail.
6. The bail application is accordingly rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Ravi