

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 321 of 2020**

- State Of Chhattisgarh Through Police Station Bemetara, District : Bemetara, Chhattisgarh

**---- Petitioner****Versus**

- Rakesh @ Golu Mandle S/o Shri Mangelu Aged About 24 Years R/o Village Karchuwa, Police Chowki Khandsara, Police Station And District : Bemetara, Chhattisgarh

**--- Respondent**


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For Petitioner/State : Mr. Lalit Jangde, Dy. G.A.

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**DB : Hon'ble Shri Justice Manindra Mohan Shrivastava****Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****22/03/2021**

1. Heard on application for condonation of delay as well as on prayer for grant of leave to appeal.
2. Even if, we are inclined to condone the delay, we do not find any ground to grant leave to appeal though learned State Counsel would submit that father, mother and the prosecutrix have stated regarding the age supported from the evidence of school records because the learned trial Court, in order to arrive at conclusion that the prosecution has failed to prove age beyond reasonable doubt, has taken into consideration that the basis, on which, date of birth was recorded in the school register is not disclosed and the school authority who was examined to prove the contents of the Dakhil Kharij Register has not stated as to on whose instruction and declaration date of birth was recorded. Father of the prosecutrix has stated that he had no basis to disclose the date of birth and teacher recorded date of birth of his own estimation, the evidence of father and mother do not reveal date of birth either of themselves, date of their marriage, date of birth of any children including prosecutrix. Merely because there is possibility of another view, leave cannot be granted unless it is prima facie found that the finding recorded by the learned trial Court suffers from patent illegality, perversity or ignorance/omission to consider any material evidence on record or complete misapplication of settled legal position,

therefore, no case is made out for grant of leave to appeal. Therefore, the application is rejected.

3. The CRMP is accordingly dismissed.

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

**Sd/-**  
**(Vimla Singh Kapoor)**  
**Judge**

Ravi