

**IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR**

Through Video Conferencing

EMG-Crl(M) 49-A /2020 in bail app no. 46-A/2020

Javid Ahmad Wagay

.....Petitioner

Through: Mr. Suja ul Haq adv.

V/s

UT of J&K and ors

.....Respondent(s)

Through: Mr. B.A Dar, Sr. AAG.

CORAM:

HON'BLE MR JUSTICE ALI MOHAMMAD MAGREY, JUDGE

*Whether approved for reporting? **Yes/NO***

Order

20.05.2020

Objections within one week. In the meanwhile, taking into consideration the statement made by Mr. Suja ul Haq, advocate on behalf of the accused that the age of the prosecutrix recorded in the School records of Government High School Furrah, Anantnag is more than 22 years at the time of commission of offence i.e 18.11.2019, therefore, the offence under section 363, IPC and Section 3 POCSO Act is not made out.

Learned counsel further submits that prosecutrix being major and out of her own consent inter-acted with the accused.

Mr. Suja further submits that the applicant-accused had filed application before the trial court for seeking records from Government School Furrah as proof of age of prosecutrix being 22 years but the same has been turned down by the trial court without any justiceable reason.

Before proceeding further it has become necessary to direct SHO Police Station Qazigund, Anantnag to approach the Head Master Govt. High School Furra and to obtain the certificate of date of birth of Shabnam Rashid D/o Abdul Rashid Bhat R/o Furrah Anantnag stated to be admitted in the year 2001 under admission no. 963 of 2001 dated 23rd Nov. 2001.

On approaching the Head Master shall provide the certificate of Date of Birth of the prosecutrix, Shabnam Rashid to the SHO of aforesaid police station, who shall produce the same before this Court through Mr. B.A Dar, Sr. AAG on the next date of hearing.

List on 28th May, 2020.

Registry to provide copy of this order as also copy of petition to Mr. B.A Dar, Sr. AAG by e-mail. Copy whereof shall be furnished to Mr. Shuja ul Haq as well by e-mail.

(Ali Mohammad Magrey)

Judge

Srinagar

20.05.2020

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- v. Whether the order is speaking: Yes/No
- vi. Whether the order is non-speaking : Yes/No.

