

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 34451 of 2019

**Applicant :-** Shakib

**Opposite Party :-** State Of U.P. And Another

**Counsel for Applicant :-** Chetan Chatterjee

**Counsel for Opposite Party :-** G.A.

**Hon'ble Arvind Kumar Mishra-I,J.**

Heard learned counsel for the applicant and the learned A.G.A. for the State.

Claim of the applicant is that applicant is a young boy of 20 years and he is in the age of a student. He has not committed any offence. The actual age of the victim is above 18 years. The father of the victim somehow managed lesser age than that was the actual age of the victim. How is it that the victim is 14 years old as per the prosecution case as date of birth suggests, then various Epiphysis are completely and almost fused, only one of the Ischial Taboos, wherein, Epiphysis not fused and under that observation the doctor has rightly opined that the victim is 19 years of age. While viewing things from that angle, the reading of statement of the victim under Section 164 Cr.P.C. would exonerate the applicant. It is all love affair between two persons. No offence has been committed and to love a person is not penal and criminal. The entire life and the future of the applicant will be jeopardised if he is kept behind the bar. In case, the applicant is admitted to bail, there is no possibility of absconding or misusing the liberty of bail. The applicant has no criminal history and is languishing in jail since 4.7.2019 in the present case.

The learned A.G.A. has vehemently opposed the prayer.

Considering the rival submissions and the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness and prima facie case, without expressing any opinion on merit of the case, this bail application is allowed.

Let the applicant- Shakib involved in case crime no.141 of 2019, under Sections 363, 366, 376, 506 IPC and Section 3/6 of POCSO Act, Police Station Janakpuri, district Saharanpur be released on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of the court concerned.

**Order Date :-** 30.9.2019/Raj