

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3388 OF 2015**

Bhuneshwar Ram S/o Modgo Ram, aged about 20 years, Caste-
Cheek, R/o- Village Bhelwan, Police Station- Tumla, Tahsil- Farsabahar,
District- Jashpur, Civil & Revenue District- Jashpur (C.G.)

... Applicant

Versus

The State of Chhattisgarh, through Police Station- Tumla, District-
Jashpur (C.G.)

... Respondent

For Applicant	:	Mr. A.K. Prasad, Advocate.
For Respondent-State	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/12/2015

1. This is the second Application filed under Section 439 of Cr.P.C. for grant of bail to the Applicant who is in jail since 31.3.2014 in connection with Crime No. 09/2014 registered at Police Station Tumla, District Jashpur, for the offence punishable under Sections 376, 506 of IPC and Sections 3, 4 of the Protection of Children from Sexual Offences Act, 2012.
2. The first Bail Application filed by the Applicant stood dismissed as withdrawn vide order dated 21.8.2014 passed by this Court in M.Cr.C. No. 4118/2014, with a liberty to revive the bail application after the prosecutrix is examined.
3. The present bail application has been filed on two counts; firstly that the Court where the trial was going on was lying vacant for a considerable period of time and therefore there was a delay in conclusion of the trial, and secondly, that now when the Trial Court has started functioning but till date the prosecutrix has not been examined, and that the next date given for the evidence of the prosecutrix is in the

month of February, 2016. Therefore, the Counsel for the Applicant submits that taking into consideration the fact that the Applicant is in jail since 31.3.2014, he may be released on bail.

4. Counsel for the State however opposes the bail application on the ground that once this Court has already held that the case of the Applicant can be considered only after the prosecutrix is examined, the stage has not yet come, and therefore no case is made out for grant of bail to the Applicant.

5. Considering the total facts and circumstances of the case, this Court is of the opinion that in the light of the observations made while disposing of the first bail application, it would not be proper for this Court to grant bail to the Applicant at this juncture. However, taking into consideration the fact that the Court below which was lying vacant for a considerable period of time has now started functioning, it is expected that the Court below strictly adhere to the schedule fixed for evidence in the present case and shall also ensure recording of the evidence of the prosecutrix as early as possible.

6. The application filed under Section 439 Cr.P.C. stands accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge