

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4254 of 2015

Prakash Mahaldar S/o Pranav Mahaldar, Aged about 25 years,
R/o Village Bade Kapasi Forest Colony, Post Office and Police
Station Pakhanjur, Rev. and Civil Distt. North Bastar Kanker,
Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through the Police Station Pakhanjur,
District North Bastar Kanker, Chhattisgarh.

---- Respondent

For Applicant : Shri Pravin Ku. Tulsyan, Advocate
For Respondent/State: Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

14/08/2015

This is the second bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who was arrested on 03.04.2013 in connection with Crime No. 96 of 2013 registered at PS Pakhanjur, District Kanker for the offence punishable under Sections 363, 366(A), 376, 506 (II) & 34 of IPC, Sections 3 (2)(v) & 3 (1) (xii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Sections 67, 67(A) & 67(B) of IT Act and Sections 4, 6 & 14(3) of the Protection of Children from Sexual Offences Act.

The first bail application of the applicant was dismissed as withdrawn by this Court on 07.08.2014 with a direction to the Court below to ensure expeditious trial.

Counsel for the applicant submits that in the present case, 12 prosecution witnesses out of 15 have already been examined, one witness has been given up and the remaining two who are departmental witnesses are not entering appearance before the Court below for almost 1 ½ years in spite of summons and warrants issued

against them. He further submits that the trial is getting prolonged only on account of the fault on the part of the departmental witnesses and therefore granting advantage of the same, the petitioner may be released on bail.

However, State counsel opposing the bail application submits that taking into consideration the nature of allegation levelled against the applicant, it would not be appropriate at this juncture to release the applicant on bail when most of the prosecution witnesses have already been examined.

Considering the entire facts and circumstances of the case this Court is of the opinion that it may not be proper at this juncture to release the applicant on bail.

Accordingly, the second bail application filed by the applicant is rejected. However, it is directed that taking into consideration the peculiar facts and circumstances of the case wherein the departmental witnesses, prima facie, appears to be deliberately avoiding summons and bailable warrants issued against them for their appearance, the Court below shall take all necessary steps to ensure for their presence before the Court below and conclude the trial as expeditiously as possible.

Sd/-
(P. Sam Koshy)
JUDGE