

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 257 of 2016**

Uttam Nag S/o Shri Sajan Nag Aged About 25 Years Permanent Resident Of Village Malpuda Godam, Jhopadpatti, Near Rly. Station, Balangir, Distt. Balangir, Orissa.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, P.S. Amleshwar, Distt. Durg, Chhattisgarh.

---- Respondent

For Applicant:

Mr. B.P. Rao, Advocate

For State:

Mr. Ashok Swarnkar, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board**15.01.2016**

1. This is third bail application filed under Section 439 of Cr.P.C. for grant of bail to the Applicant who is in jail since 01.07.2013 in connection with Crime No. 66/2012 registered at Police Station – Amleshwar, District Durg (C.G.) for the offence punishable under Sections 363, 366, 376 of I.P.C and 5(L), 6 of Protection of Children From Sexual Offence Act 2012.

2. The first bail application was dismissed as withdrawn on 30.07.2014 with liberty to revive the same after the prosecutrix is

examined before the Court below. On the ground that Prosecutrix was deliberately avoiding her presence before the Trial Court, the second bail application was filed but the same was dismissed as withdrawn on 10.07.2015 whereby the direction was issued to Court below to ensure presence of the prosecution witnesses particularly the Prosecutrix before the Court so that the evidence is recorded and the trial is concluded at the earliest.

3. Learned Counsel for the Applicant submits that the Prosecutrix appeared before the Trial Court on 09.07.2015 which inadvertently has not been brought to the notice of this Court on 10.07.2015 while deciding the second bail application, however on 09.07.2015 when the Prosecutrix was being examined in chief, at that time she did not produce original record pertaining to her date of birth and the further examination was since adjourned. However, till date the Prosecutrix has not entered her presence, she herself is deliberately avoiding completion of her evidence. Therefore, the present Applicant who is in jail since 01.07.2013 may be released on bail.

4. Learned State Counsel however opposing the bail application submits that it is the case where the Prosecutrix at the time of commission of offence was a minor and therefore it would be very relevant for the prosecution to produce the original records pertaining to date of birth of the Prosecutrix which could not be produced during the course of the evidence. At this juncture accordingly, the present

Applicant may not be released on bail in the interest of trial as the possibility of the Applicant trying to put undue influence cannot be ruled out.

5. Considering the total facts and circumstance of the case, particularly the fact that as per the prosecution the Prosecutrix is a minor and that the Applicant is in jail only since 01.07.2013 and that the Prosecutrix had entered her presence on 09.07.2015, through thereafter about 5-6 dates of trial have been fixed which were deliberately avoided by the Prosecutrix herself, the Trial Court is directed to ensure that this case be concluded at the earliest, and take all appropriate steps ensuring presence of the Prosecutrix for speedy disposal of the trial.

7. With the aforesaid observation the present Application is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE