

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1357 of 2016

Ganraj Singh Kanwar, S/o Shankarlal Kanwar, aged about 40 years, R/o Rainpur, P.S. & Post Pali, Tahsil Katghora, Distt. Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through S.H.O., Police Station Pali, Distt. Korba (C.G.)

---- Non-applicant

For Applicant:	Mr. Awadh Tripathi, Advocate.
For Non-applicant:	Mr. Adhiraj Surana, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/04/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.102/2015, registered at Police Station Pali, Distt. Korba, for the offence punishable under Sections 354A, 186, 147, 148 of the IPC; Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; and Sections 7 & 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').
2. This is the second bail application filed on behalf of the applicant for grant of regular bail. First bail application has been rejected on merit by order dated 4-9-2015 passed by this Court in M.Cr.C. No.4029/2015.
3. Learned counsel for the applicant would submit that after rejection of first bail application, now charge-sheet has been filed and charges

have been framed by order dated 4-12-2015 in which no charge has been framed against the applicant under Section 186 of the IPC, however, charges have been framed under Sections 147, 448, 451, 354, 354A of the IPC and 8 of the POCSO Act. He would further submit that thereafter, four prosecution witnesses including two minor girls have been examined and they have not supported the case of the prosecution. He would also submit that offence under Sections 354 of the IPC and 8 of the POCSO Act, which also relate to outraging the modesty, are non-bailable and all other offences namely Sections 147, 448, 451 and 354A of the IPC are bailable. The applicant is in custody since 17-7-2015 and all other co-accused persons have been released on bail, and out of four prosecution witnesses, three witnesses have been declared hostile and they have not supported the case of the prosecution. Therefore, looking to the detention of the applicant for eight months and in view of the fact that the prosecution witnesses have not supported the case of the prosecution, the applicant deserves to be released on bail.

4. On the other hand, learned State counsel would oppose the application and would submit that age of the victim minor girls is the material factor and though they have been declared hostile, but, other prosecution witnesses are yet to be examined.
5. I have heard learned counsel for the parties and perused the case diary.
6. It is not in dispute that after rejection of first bail application, charge-sheet was filed and thereafter, four prosecution witnesses were examined by the trial Court and out of four, three witnesses, including the complainant/victim, have not supported the case of the prosecution.

7. Taking into consideration, nature and gravity of offence, facts and circumstances of the case; taking note of the fact that out of the offences charged against the applicant, only offence under Sections 354 of the IPC and 8 of the POCSO Act are non-bailable, and rest of the offences are bailable; even charge under Section 186 of the IPC has not been framed against the applicant; and the applicant is in custody since 17-7-2015, about nine months, I consider it a fit case for grant of bail to the applicant. Accordingly, the application is allowed.
8. It is, therefore, directed that applicant Ganraj Singh Kanwar be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge