

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7508 of 2015**

Joseph Dhannaswamy, S/o Shri Thambuswami, aged about 50 years, Occupation Principal, Biyaani Higher Secondary School, Sarbhoka, R/o Gram Sarbhoka Paris, Thana Podhi, District Koriya (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Podhi, District Koriya (CG).

---- Non-applicant

For Applicant : Dr. Shailesh Ahuja, Advocate
For Non-applicant : Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****01/07/2016**

(1) Heard.

(2) This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.105/2015 registered at Police Station Podhi, District Koriya, for the offence punishable under Sections 376(2)(f) & 377 of Indian Penal Code, 1861 read with Section 5(f),(i),(m) and Section 6,19(1), 20 & 21 of the Protection of Children from Sexual Offences Act, 2012.

(3) The applicant's first bail application was dismissed on merits by order of this Court dated 26.10.2015 passed in M.Cr.C. No.5341/2015.

(4) Learned counsel appearing for the applicant submits that four material prosecution witnesses have already been examined before the trial Court and they have not supported the case of prosecution and applicant is in detention since 11.09.2015 and no useful purpose will be served in keeping him in jail and statement of the victim (minor) has not supported the fact of identification in her statement before the trial Court, therefore, the applicant may be released on bail. He relied upon the order of this Court in case of **Gurpeet Singh Vs. State of Chhattisgarh**¹.

(5) On the other hand, learned counsel appearing for the State/non-applicant submits that the victim as well as victim's mother have clearly supported the case of the prosecution and some other witnesses are yet to be examined and the applicant's first bail application has already been rejected on merits vide order dated 26.10.2015 and, as such, he is not entitled to be released on bail.

(6) Earlier, the bail application of the applicant has been rejected by this Court stating in para-6, which reads as under:-

“A perusal of the case diary would show that on the date of occurrence, applicant was holding the post of Principal of the School in which the victim girl (9 years) was studying in IVth standard and was staying in the hostel managed by the school and its society. The incident was said to have occurred on 07.09.2015 and victim child was medically examined on 10.09.2015 by Medical Officer, District Hospital, Baikunthpur in which multiple external injury on her private parts as well as on wrist joint was found and the medical officer clearly opined to be a case

¹ 2015(1) C.G.L.J.

suggestive of sexual intercourse without her consent. In the course of investigation victim's undergarment was seized and it was sent to Forensic Laboratory for Chemical Examination. The said laboratory after examination found semen and human spermatozoa in her undergarment. In the test identification parade conducted on 11.10.2015, the victim girl has identified by the applicant. Not only the statement of Dr. Minj who initially treated the victim girl, statement of victim girl recorded under Section 164 of the Code of Criminal Procedure and statement of Smt. Laxmania Sahu would show the involvement of the applicant in offence in question and further taking note of the fact that applicant was obliged to inform the said fact statutorily to the police, which he failed to do, thus considering the totality of the facts and circumstances of the case, in the considered opinion of this Court, the applicant is not entitled for regular bail. The bail application deserves to be and is accordingly rejected.”

(7) After hearing learned counsel appearing for the parties and taking into account the statements of victim girl (minor) and her mother before the trial Court and consideration made by this Court vide para-6 hereinabove and the totality of the facts and circumstances of the case, I do not find any new or good ground to entertain the second bail application. Consequently, the second bail application deserves to be and is accordingly dismissed. However, the trial Court is directed to expedite the trial and conclude it expeditiously.

(8) Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

L/-