

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C No. 6738 of 2017

- Durgesh Gayakwad S/o Hulas Gayakwad Aged About 23 Years R/o Ward No. 05, Satnami Para, Village Dhursa, Police Station Panduka, District Gariyaband, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Mainpur, District Gariyaband, Chhattisgarh.

---- Respondent

For the Petitioner : Shri Raza Ali, Advocate.

For the Respondent/State : Shri O.P.Sahu, GA.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

31.10.2017

1. Heard on application under Section 439 of Cr.P.C.
2. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.123/2016 registered at Police Station - Mainpur, District- Gariyaband, Chhattisgarh for the offences punishable under Sections 363, 366, 376 (2) of Indian Penal Code and Sections 4 and 6 of the POCSO Act.
3. It is submitted that applicant's first bail application M.CR.C. No. 4318/2017 was dismissed on merits

on 08.08.2017 by Co-ordinate Bench of this Court. Thereafter, a change of circumstances have taken place as the witnesses examined by trial Court subsequent to that date have given statement in favour of the applicant. The prosecutrix herself has given statement that she and the applicant had love affair and they married in the Arya Samaj Temple, her age was about 19 years on that date. Father and mother of the prosecutrix have stated before the Court that they have no specific knowledge about the date of birth of the prosecutrix. Further, it is submitted that prosecutrix and the applicant have married and the certificate has been issued by Arya Samaj Temple, Raipur, which has been attached as Annexure with this application, hence, he is entitled to be enlarged on bail.

4. Learned counsel for the State opposes the application and the submission made in this respect. It is submitted that School certificate and the statements of witnesses during the investigation show that the prosecutrix is minor on the date of incident, hence, the applicant is not entitled to be enlarged on bail.
5. I have heard the learned counsel for the parties and perused all the documents placed on record and the case diary and also the documents attached with the application.
6. Considering the submission and the contents of the case diary and also the statements of witnesses before the Court, I am of the view that it appears to be a fit case in which the applicant is entitled to be enlarged on bail.
7. Accordingly, the bail application M.C.R.C No. 6738 of 2017 is allowed and it is directed that the applicant

shall be released on bail on his furnishing personal bond for a sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of concerned trial court, for his appearance as and when directed.

8. C.C. as per rules.

Sd /-

(Rajendra Chandra Singh Samant)

Judge

Jamal