

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1695 of 2017

Prakash Mahto @ Gorkha, S/o. Koushal Kishore Mahto, Aged About 18 Years, R/o. Shantinagar, Police Station Vishrampur, District Surajpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Ghandinagar, District Surguja, Chhattisgarh.

---- Respondent

For Applicant : Ms. Hamida Siddique, Advocate

For Respondent : Mr. S.R.J.Jaiswal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

29/03/2017

1. This is the third bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.151/2015 registered at Police Station- Gandhinagar, District Surguja (C.G.) for the offence punishable under Section 377 of Indian Penal Code and Section 3 & 4 of Protection of Children from Sexual Offences Act.
2. The first bail application was dismissed as withdrawn on 04.12.2015 in MCRC No.6551 of 2015 with liberty to revive the same after examination of the prosecutrix and the eye-witnesses. Thereafter, the second bail application was filed on the ground that one eye-witness has been examined, which was dismissed on merit on 28.07.2016 in MCRC No.2115 of 2016.

3. Case of the prosecution, in brief, is that on 03.07.2015 at 9:30 P.M., the applicant has committed unnatural sexual intercourse with the victim/boy. Thereby, the offence has been committed.
4. Learned counsel for the applicant submits that the victim has been examined and he has not supported the case of the prosecution. She further submits that the applicant is in jail since 13.07.2015 and there has been enormous delay caused and till date the trial is not completed, therefore, the applicant may be released on bail.
5. Per contra, learned State counsel opposes the prayer for grant of bail.
6. Perused the case diary, earlier orders and statement of the victim, which shows that he has not supported the case of the prosecution. Taking into such statement and the fact that the applicant is in jail since 13.07.2015, without any observation on merit, I am inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge