

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4393 of 2017

Gajendra Singh Chouhan S/o Late Noman Singh Chouhan Aged About 21 Years R/o Infront Of Uday College Ward No. 13, Jamul, Police Station- Jamul, District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate Durg, And Also Through Police Station- Jamul Tahsil And District Durg, Chhattisgarh.

---- Respondent

Shri S.C.Verma, counsel for the applicant/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/07/2017

This is second bail application. First bail application was rejected on 24/01/2017.

2. The applicant has been arrested in connection with Crime No.630/2016 registered in Police Station – Jamul, District – Durg (CG) for alleged commission of offences under Section 363, 366-A and 376 of IPC and Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

3. Learned counsel for the applicant submits that this application has now been moved after the prosecutrix has been examined and her evidence given in the Court clearly shows that the applicant is being falsely implicated and she herself stated in the cross examination that there was no sexual intercourse between the applicant and the prosecutrix. Therefore, at this stage, when the most important witness has been examined and the applicant is not likely to abscond, he may be granted.

4. On the other hand, learned State counsel submits that whether the girl's

statement should be believed or disbelieved, is a matter of evidence. Even though the girl has given contradictory evidence, at this stage, it cannot be decided because the applicant is being tried for alleged commission of offence under Section 376 of IPC as also POCSO Act. Therefore, the applicant may not be granted bail.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the prosecutrix has now been examined and submission of learned counsel for the applicant that in the cross examination, prosecutrix has admitted that there was no sexual intercourse between the applicant and the prosecutrix and that the applicant is in jail since 04/12/2016 and the applicant is not likely to abscond or tamper with the prosecution witnesses, I am inclined to grant bail to the applicant.

6. Accordingly, this application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge