

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 269 of 2018**

Bhuneshwar @ Ganeshwar Dhimer (wrongly mentioned in the impugned order Bhuneshwar Dhimer), Son Of Biruj Dhimer, Aged About 21 Years, R/o. Village Suma, Thana Bhatapara (Gramin), District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through The Police Station House Officer- Thana Bhatapara (Gramin), District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Mr. Deepak Jain, Advocate

For State/respondent : Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/03/2018**

1. 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.16/2016, registered at Police Station – Bhatapara (Gramin), District – Baloda Bazar – Bhatapara (C.G.), for the offence punishable under Section 363, 366(A), 376 of the Indian Penal Code and Section 4, 6 of Protection of Children from Sexual Offences (POCSO Act), 2012. The first bail application was dismissed on merits vide order dated 18.04.2017 in M.Cr.C. No.2155/2017 by the Coordinate Bench of this

Court.

2. It is submitted by the learned counsel for the applicant that prosecutrix and other material witnesses have been examined before the trial Court and they have turned hostile, hence, there is no any material witness in support of the prosecution case, which itself is change in circumstance. Therefore, the counsel prays that the applicant may be released on bail.
3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. Perused the certified copy of the deposition sheet of the witnesses. Prosecutrix herself has totally denied about any commission of offence against her, hence she has been declared hostile by the prosecution. Similarly material witnesses, the relatives i.e. the mother and grand-mother of the prosecutrix have also similarly deposed, who have been declared hostile by the prosecution.
6. It appears that the hostility of the material witnesses in this case definitely have brought in change of circumstances because of which, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram