

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 858 of 2018

- Shubham Namdev S/o Ravindra Namdev, Aged About 20 Years, R/o Village Manki, Thana Somni, Tahsil/District Rajnandgaon, Chhattisgarh. (Father name wrongly mentioned as Ravendra Namdev), District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Thana Somni District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Non-applicant

For Applicant – Shri Samir Singh, Advocate.

For Non-applicant/State – Shri N.K. Mehta, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-04-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. by the applicant for grant of regular bail. This is second bail application of the applicant before this Court. His first application MCRC No.899/2017 has been decided on 17-04-2017 by the coordinate bench of this Court rejecting the bail application. The applicant has been arrested on 14-01-2017 in connection with Crime No. 08/2017 registered at P.S. Somni, District Rajnandgaon, Chhattisgarh for the offence under Section 363, 365, 366, 376, 506/34 of the IPC.

2. It is submitted on behalf of the applicant that more than one year has passed, the applicant is in jail since 14-01-2017 and so far only 9 witnesses have been examined by the trial Court. The allegation of rape is not against this applicant, the only statement against him is this, that he was present at the time of incident and it has been similarly stated by the prosecutrix before the trial Court that the applicant was only present at the time of incident and has not participated in commission of the offence. Hence, this is change of circumstances and on that ground the applicant is praying for grant of bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the applicant had played active role in commission of the offence by assisting the accused in this case. Hence, no case is made out for grant of bail.
4. Heard learned counsel for the parties and perused the case diary.
5. The earlier bail application of this applicant has been decided on merits and the merits shall not be considered in this application. Change of circumstances to be noted at present is this, that out of 26 witnesses only 9 witnesses have been examined and also on perusal of the certified copy of the statement of the prosecutrix produced before this Court, it appears that the applicant is son of the main accused person and his presence is though stated by the witness, the prosecutrix, but compared to her statement under Section 161 of the Cr.P.C., it seems to be some different with some omissions. Hence, looking to the change of circumstances and pendency of the trial against this applicant, I am of this view that this applicant should be released on bail during pendency of the trial against him.
6. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby 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/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
7. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge