

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3582 of 2018**

- Jaggu Yadav S/o Dhannu Yadav Aged About 19 Years R/o- Village-Choubeybandha, Post Office And Police Station- Rajim, District-Gariyaband, Chhattisgarh.,

---- Applicant**Versus**

- State Of Chhattisgarh Through- The Station House Officer, Police Station- Rajim, District- Gariyaband, Chhattisgarh.,

---- Respondent

For Applicant	:	Shri Shivendu Pandya, Advocate
For Respondent/State	:	Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****10.09.2018**

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr.P.C.) for grant of regular bail to the applicant – Jaggu Yadav as he has been arrested on 10.04.2017 in connection with crime No. 79/2017 registered in Police Station Rajim, District Gariyaband (C.G.) for the offence punishable under Section 376(2)(n) & 417 IPC and Sections 4, 5 & 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act).
2. Case of the prosecution is that the prosecutrix has lodged the report alleging inter alia therein that from September, 2015 till 09.04.2017 the applicant, on the pretext of marrying her, has made physical relation with her. It is alleged further in the report that when she requested for marriage, it was refused by the applicant. Further prosecution story is that when the applicant has refused to perform marriage with her, the prosecutrix has informed her cousin and

lodged the report. Based upon it, the offence punishable under the aforesaid sections has been registered against the applicant.

3. Shri Shivendu Pandya, learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits that the prosecutrix has already been examined by the trial Court on 15.02.2018 and a bare perusal of her entire evidence would show that she has not supported the prosecution story in any manner and in fact, has turned hostile. He submits further that the applicant is in jail since 10.04.2017 and in view of the evidence of the prosecutrix, the applicant may be released on bail.
4. On the other hand, Shri Anant Bajpai, learned counsel for the State while opposing the said bail application submits that although the prosecutrix has turned hostile but she has very specifically admitted her signature with regard to the material documentary evidence, such as, first information report, concerned letter and other documents while stating at para 2 of her statement and all these material documentary evidence would prima facie show that a serious offence has been committed by the applicant. He, therefore, submits that mere statement of the prosecutrix does not entitle him to be enlarged on bail. Thus, the bail application may be rejected.
5. I have heard learned counsel for the parties and perused the relevant papers annexed with the application as well as case diary carefully.
6. Having considered the facts and circumstances of the case and that by considering the statement of the prosecutrix, I am inclined to enlarge the applicant on bail without making any comments on merits at this stage.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in sum of Rs.50,000/- (Rupees fifty thousand only) with one surety to the satisfaction of the trial Court.

He is directed to appear before the concerned trial Court on each and every date as and when directed by the trial Court. It is, however, made it clear that I have not entered into the merits of the case and the trial Court shall proceed with the matter without influencing any of the observations of mine while allowing this application.

Sd/-

(Sanjay Agrawal)
Judge

Anjani