

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 461 of 2019

- Jainsan Yadav S/o Shri Devraj Yadav Aged About 19 Years R/o Village Devbahal, Police Station- Raja, Khariar, District Nuvapara, Odisha At Present Ganesh Veshan Mill, Cherikheri, P.S. Telibandha, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Telibandha, Civil and Revenue, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Ms. Madhunisha Singh, Advocate.
For Respondent/State : Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

05/03/2019

1. The Applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 319/2017, registered at Police Station – Telibandha, Civil and Revenue District – Raipur, Chhattisgarh, for the offence punishable under Sections 363, 366, 376(2) (a) of the IPC and Sections 4 & 6 of POCSO Act.
2. First bail application was dismissed as withdrawn with liberty to file afresh after two months vide order dated 12.10.2018 passed in MCRC No. 7148/2018.
3. In this case, prosecutrix is a minor girl aged about 15 years. On 07.08.2017, mother of the prosecutrix lodged a missing report of her daughter in Police Station Telibandha, Raipur. On the basis of the said, initially offence under Section 363 of the IPC has been registered. During course of investigation, prosecutrix was recovered. Statements of the prosecutrix has been recorded and on the basis of

the said, other offences have been added. The present Applicant has been taken into custody on 11.08.2017.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. She further submits that there was a love relationship between the present Applicant and the prosecutrix. She further submits that the prosecutrix has already been examined before the Trial Court in which she has not supported the case of the prosecution and has turned hostile. The present Applicant is in custody since 11.08.2017 and trial is likely to take some time. Therefore, the Applicant may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application and submits that though the prosecutrix has been examined before the Trial Court and turned hostile but she (prosecutrix) has categorically stated that the Applicant took her away with him on the pretext of marriage. Prosecutrix has also stated that at Kantabhaji, the Applicant in his Aunt's house, made forcible sexual intercourse with the her (prosecutrix). Thus, on the basis of the said allegations, the Applicant shall not be released on bail.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the statements of the prosecutrix recorded in the Trial Court, I am not inclined to release the Applicant on bail.
8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
Judge