

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 562 of 2019

- Suraj Bhilware S/o Shri Ramcharan Bhilware, Aged About 22 Years, R/o Village Rajwada Chowk, Aata Bazar Indor, M.G. Road District Indore, Madhya Pradesh.

---- Applicant

Versus

- State Of Chhattisgarh, Through : S.H.O. Lalpur, Police Station Lalpur, District Mungeli, Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Dheerendra Pandey, Advocate.

For State/non-applicant : Mr. H.S. Ahluwalia, Deputy A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

05/02/2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. His first application before this Court for grant of regular bail was dismissed for want of prosecution. The applicant has been arrested on 21-01-2018 in connection with Crime No.264/2017, registered at Police Station – Lalpur, District Mungeli, Chhattisgarh for offence under Section 363, 366, 376 of the IPC & Section 4-6 of POCSO Act.
2. Learned counsel for applicant submits that applicant has been falsely implicated in this case. No case is made out against him. Age of the prosecutrix was above 18 years on the date of incident and she had been a consenting party. The prosecutrix has been examined before the trial Court in which she has clearly stated that she and the

applicant both had affair, therefore, she was a consenting party. Further, she has also admitted in her cross-examination that she did not want to prosecute the applicant. Further, the trial against the applicant is getting delayed. Therefore, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that age of prosecutrix was merely 15 years and 9 months on the date of incident, hence, any consent given by her is immaterial. Therefore, the application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. It is alleged that this applicant abducted the minor prosecutrix and then committed the offence of rape with her, then he exploited her sexually on various occasions while he took her to different places. Hence, this case.
6. After perusing the certified copy of the deposition of the prosecutrix and also considering the fact that the trial is getting delayed, I feel inclined to allow this application.
7. Consequently, the 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.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge