

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 924 of 2019

Mahesh Lakda @ Pandru S/o Chiranji Lakda, Aged About 22 Years, R/o Manikprakashpur, Police Station Ambikapur, District Surguja Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate.

For Respondent : Mr. Rahim Ubwani, P.L.

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

21/02/2019

1. Heard on application filed under Section 439 of the Code of Criminal Procedure. This is second bail application before this Court filed by the applicant for grant of regular bail. His first bail application under Section 439 of Cr.P.C. was dismissed as withdrawn. The applicant has been arrested on 28.08.2017 in connection with Crime No.501/2017, registered at Police- Station- Ambikapur, District- Sarguja (C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for the applicant submits that no case is made out against this applicant. According to the F.I.R. lodged, the incident is of 25.08.2017, whereas, the F.I.R. was lodged with a delay of three days on 28.08.2017 and the medical report of the prosecutrix is also not positive in opinion. Another circumstance that has developed is this, that, the prosecutrix and other witnesses have been summoned for appearance before the Court in trial for number of times and the report has been received that their whereabouts are not known. Therefore,

the trial is getting delayed and applicant is languishing in jail without any fault on his part. Hence, it is prayed that he may be enlarged on regular bail.

3. Learned State counsel opposes the application submitting that the statement of prosecutrix is very clear and cogent that applicant has committed offence of rape. Hence, the application may be rejected.
4. Heard Learned counsel for the parties and perused the case diary.
5. According to the F.I.R. lodged, the applicant called the prosecutrix on phone to the spot in Kharsiya Chowk, where the prosecutrix arrived and thereafter he took her to a place and promising her that he will marry her, he had physical relation with her. The prosecutrix narrated this incident to her sister and this F.I.R. was lodged.
6. Considered on the entire material present in the case diary. The prosecutrix is a woman of age 20 years and the medical opinion of the doctor is not supported by way of any positive finding, further, the whereabouts of the important witnesses are yet to be found out by the prosecution in the trial, hence, for these reasons, I feel inclined to allow this application.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge