

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1758 of 2019

- Harishankar Mihaulia S/o Shri Khemchand Mihaulia Aged About 43 Years R/o Ward No.8 Bajrang Para, Kohka Bhilai, Police Station Supela, District- Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pulgaon, District- Durg, Chhattisgarh.

---- Respondent

For Applicant : Shri Dhiraj Kumar Wankhede, Advocate
For Respondent/State : Shri KK Dewangan, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

07/05/2019

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 08/2019, registered at Police Station Pulgaon, District- Durg (C.G.) for the offence punishable under Section 376 of the IPC and Section 6 of the POCSO Act.
2. In this case, the age of the prosecutrix is about 10 years four months. As per prosecution story, on 04.12.2018, when the prosecutrix went to school, at about 4 PM, when she was putting lock on main gate after putting lock on channel gate, at that time her two friends were also present with her, thereafter, the applicant who is a teacher, came there and told her that she has left some belongings inside the school. Thereafter, the prosecutrix opened the lock of the channel gate, allegedly, the

applicant locked the said gate and took the prosecutrix to store room and then he undressed her and committed rape on her. On 05.01.2018, a report has been made by mother of the prosecutrix. On the basis of said report offence has been registered. The applicant is in custody since 07.01.2019.

3. Learned Counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further submits that the incident has been taken place on 04.12.2018 and FIR has been lodged after a month i.e. on 05.01.2019 which cause a serious doubt on the prosecution case. He further submits that in-charge of the said school namely Lekhpal Singh Chouhan has previous enmity with the applicant and he also made a complaint before the Block Education Officer, wherein, no complaint of rape has been mentioned, at his instance, the whole story falsely and malafidely prepared. In medical report of the prosecutrix also, no injury has been found. The applicant is in custody since 07.01.2019, charge-sheet has already been filed and trial is likely to take some time. Therefore, he may be released on bail.
4. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
5. I have heard learned Counsel for the parties and perused the case diary with due care.
6. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that the applicant is in custody since 07.01.2019, charge-sheet has already been filed and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release him on bail.

7. Accordingly, the bail application is allowed.

8. It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge

Shubham