

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2038 of 2019

- Gorelal Sahu, S/o Ghasiya Ram, Aged About 41 Years, R/o Village Louda, Police Station, Pathariya, District-Mungeli Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station, Pathariya, District-Mungeli Chhattisgarh.

---- Respondent

For Applicant	:	Mr. O.P.Sahu, Advocate.
For Respondent	:	Mr. Adil Minhaj, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

10/04/2019

1. This is 3rd bail application of this applicant for grant of regular bail. His first application MCRC No.3556 of 2018 was dismissed as withdrawn vide order dated 28.6.2018 and his second application MCRC No.4895 of 2018 was rejected on merits vide order dated 5.9.2018.
2. This bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.117/2018 registered at Police Station– Pathariya, District–Mungeli(C.G.) for the offence punishable under Sections 376, 294, 506 of Indian Penal Code & Section 4, 6 of Protection of Children from Sexual Offence Act, 2012.
3. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. It is submitted that at the stage of filing this application, circumstances have changed in favor of the applicant. The prosecutrix herself has been examined before the

Court below and her statement is not reliable in any manner. Father of prosecutrix and aunt of prosecutrix, who were the important witnesses in this case have not supported the prosecution case, hence, the bail application of this applicant be allowed.

4. Learned State counsel opposes the application and submissions made in this respect. It is submitted that prosecutrix has though not made statement in examination-in-chief, but on being cross-examination by the prosecutor, she has made admission about giving earlier statement to the police which has not been rebutted in her cross-examination and there is positive FSL report as well, therefore, he is not entitled for grant of regular bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. Although the application under Section 439 of the Code of Criminal Procedure has been rejected on merits earlier, but the present change in circumstances, which appears from the deposition of the witnesses which has been produced on record of this application, I am of this view that this is a fit case where application filed by applicant deserves to be allowed.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. are allowed. It is directed that 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 trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

