

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3219 of 2019

- Shyam Sai Kadiyam S/o Chainu Ram Aged About 49 Years R/o Ward No. Shubhash Chowk 14 Police Station Ambagarh Chowki, Sarbhoka Paris, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Ambagarh Chowki, Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rahil Arun Kochar, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/09/2019

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. 196/2018, registered at Police Station – Ambagad Chowki, District- Rajnandgaon, (C.G.) for the offence punishable under Sections 354 (2 times), 354 (A) (I, II, IV) (4 times), 376 (2) & 376-C of IPC and Section 6 & 12 of POCSO Act, 2012.
2. First bail application was rejected on merits vide order dated 25.10.2018 passed in MCRC No. 6151/2018.
3. As per the prosecution story, on 28.07.2018, Complainant namely Sarita Koreti, mother of one of the prosecutrix, lodged a report wherein it was alleged that on 25.07.2018, the Applicant called her daughter, who is a minor girl, in a room and tried to outrage her modesty. It was further alleged that the Applicant had assaulted one other student of the school. He used to kiss and touch the breast of the student. On the basis of the said report, offence has been

registered against the Applicant. During course of investigation, one of the prosecutrix, who is a minor girl, disclosed the fact that she was raped by the Applicant. On the above allegations, Applicant has been taken into custody on 29.07.2018.

4. Learned counsel appearing on behalf of the Applicant submits that after the rejection of first bail application, all the material witnesses have been examined before the Trial Court including informant of the case namely Sarita Kometi and none of them have supported the case prosecution and turned hostile. The Applicant is in custody since 28.07.2018. Therefore, he may be released on bail.
5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the statements of Prosecutrix (PW-1), (PW-2), (PW-6), (PW-7) (PW-8), (PW-9) & (PW-11), all the above mentioned witnesses have not supported the case of the prosecution and turned hostile. The Applicant is in custody since 28.07.2018 and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release the Applicant on bail.
8. Accordingly, the bail application is allowed.
9. It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
Judge