

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3485 of 2019

Aman Shekh @ Sharuf Shekh S/o Farukh Shekh Aged About 22 Years R/o Utroula Madhpur Chandoliya, Police Station- Utrouli, District- Balrampur, Chhattisgarh. At Present R/o Jainatalab, Near Jarhagarh, Police Station- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station- Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant	:	Smt. Hamida Siddiqui, Advocate
For State	:	Shri Aditya Bhardwaj, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/07/2019

Heard.

1. This is the third bail application on behalf of the applicant. The applicant has been arrested in connection with Crime No.125 of 2017 registered at Police Station- Ambikapur, District –Sarguja, (CG) for the alleged commission of offences under Sections 363, 366, 376 (2) IPC and Sections 5(ढ) & 6 (ढ) of the Protection of Children from Sexual Offences Act.
2. Case of the prosecution, in brief, is that the applicant has committed rape on a minor.
3. Learned counsel for the applicant would submit that the applicant has been in jail since long for none of his fault. According to her, the applicant is in jail since March, 2017 and even after lapse of more than 2 years, trial has not been concluded. Learned counsel for the applicant has placed on record the order sheet of the Court below to show that despite repeated efforts made, the prosecutrix is not turning up in the Court and on this count, the trial is not being concluded and the applicant is languishing in jail. Therefore, in these

circumstances, the applicant may be granted bail.

4. On the other hand, learned counsel for the State would submit that though there has been some delay in conclusion of trial, only on that ground, the applicant may not claim grant of bail because the nature of allegation against him is grave and in case he is granted bail, he may flee away from justice and may also tamper with the prosecution witnesses.
5. True it is that the applicant has been charged of having committed of offence alleged, but at the same time, the trial may not be allowed to remain indefinitely. After having gone through the order-sheets, I find that despite summons issued, the prosecutrix is not turning up. It is the responsibility of the prosecution to ensure presence of the prosecutrix and other witnesses of the prosecutions. The prosecution seems to have failed to produce the prosecutrix since last more than 2 years with the result that the applicant is languishing in jail. Therefore, under these circumstances, I am inclined to admit the applicant to bail.
6. Accordingly, the application is 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court.
7. The bail is being granted to the applicant with specific condition that he will have to remain present before the Court below on each and every date unless exempted by the trial Court and further that no attempt shall be made by the applicant to tamper with the prosecution witnesses or even meet the prosecutrix. Any such attempt made will render bail granted to him liable to be cancelled.
8. Before parting with the case, the trial Court needs to be appropriately directed to conclude the trial at the earliest. As the prosecutrix is not appearing, the trial Court is required to take necessary steps for appearance of the prosecutrix and to ensure that trial is concluded at the earliest. If necessary, the Court may also take appropriate action against the investigating machinery which has since failed to produce the prosecutrix before the Court below.
9. A copy of this order be forwarded to the Additional Sessions Judge (FTC) Ambikapur, District, Sarguja for necessary compliance.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge