

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4145 of 2019

Rambharosh Vishwakarma, S/o Kanta Prasad Vishwakarma, aged about 24 years, R/o Devdhi, Police Station Chandni, District Surajpur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Of Police Station Chandni, District Surajpur Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.
For Respondent/State : Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

09/08/2019

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 – Chandni, District- Surajpur (C.G.) for the offence punishable under Sections 376, 306 of IPC and Section 4 & 6 of POCSO Act.
2. In this case at the relevant time age of the deceased/prosecutrix was about 14 years. As per the prosecution story, on 27.09.2016 one of the relative of deceased Sukhdev lodged a merg intimation. On 11.03.2019 FIR was lodged as well as statements of witnesses under Section 161 of Cr. P.C. were recorded. On 01.05.2019 Applicant was taken into custody. Allegations against the Applicant is that in the year of 2016 he committed sexual intercourse with the prosecutrix/deceased due to that she got pregnant and thereafter on 27.09.2016 she committed suicide. On the basis of above, offence has been registered. The Applicant is in custody since 01.05.2019.
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 there is nothing on record on the basis of which prima facie any offence can be made out against the Applicant. He further submits that from the statements recorded under Section 161 of the mother of the deceased namely Basmati, it is clear that she was informed by Sumitra after 3-4 days that the Applicant has committed sexual intercourse with prosecutrix but Sumitra in her statements recorded under Section 161 of Cr.P.C not stated anything in this regard. He further submits that mother of the prosecutrix has not disclosed about the incident to anyone for about 2 ½ years. Moreover, she or anyone did not informed the police regarding the incident. He further submits that the Applicant is in custody since 01.05.2019, charge sheet has 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, particularly considering the evidence collected by the prosecution and further considering the fact that the report was lodged after 2 ½ years of the incident, the Applicant is in custody since 01.05.2019, charge sheet has been filed and trial will likely to take some time, without further commenting on merits of the case, I am inclined to release the Applicant 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