

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4151 of 2019**

Ajay Yadav S/o Budhram Yadav, aged about 18 years, R/o Village Gorakhnathpur, presently residing at Satpata, Police Station Bishrampur, Tahsil And District Surajpur Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.
For Respondent/State : Mr. Amit Singh, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

24/07/2019

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. 211/2018, registered at Police Station – Bishrampur, District- Surajpur (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4, 6 of POCSO Act.
2. First bail application was dismissed as withdrawn with liberty to file afresh after examination of the prosecutrix before the Trial Court vide order dated 19.02.2019 passed in MCRC No.822 of 2019.
3. As per the prosecution story, age of the prosecutrix is about 16 ½ years. Father of the prosecutrix namely Mohd. Mohammad Majib lodged a missing report alleging therein that the prosecutrix went to school on 31.10.2018 and didn't come back. On the basis of the said initially offence under Section 363 of IPC was registered. During course of investigation, prosecutrix was recovered on 02.12.2018 from the possession of the present Applicant. Her statements were

recorded and thereafter, other offences have been added. The Applicant was arrested on 02.12.2018.

4. 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 was a love relationship between both of them and due to that prosecutrix herself left her house with her own will. Both resided and stayed at various places and performed marriage. Since, she was a consenting party, therefore, no offence can be made out against the present Applicant. He further submits that he is in custody since 02.12.2018 and trial will take some time. 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 with due care.
7. Considering the facts and circumstances of the case, particularly considering the statement of prosecutrix made before the Trial Court, it seems that she was a consenting party but at the time of incident she was below 18 years, therefore, looking to the other evidences, I am not inclined to release the present Applicant on bail.
8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
Judge