

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4241 of 2019**

- Shishupal Vishwakarma, S/o Shyamlal Vishwakarma S/o Akkuram Vishwakarma, aged about 24 years (wrongly mentioned the age of the applicant as 50 years in the cause title of the rejection order), R/o. Village- Jarhidih (Gadhdongri Raiyatwari), Post Office & Police Station Sihawa, District Dhamtari (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station Sihawa, District Dhamtari (C.G.)

---- Respondent_

For Applicant	:	Shri Shivendu Pandya, Adv.
For Respondent	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****30.07.2019**

1. The accused/applicant has moved this bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 100/2018 registered at Police Station Sihawa, District-Dhamtri (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC, 4 of The Protection of Children From Sexual Offences Act, 2012 and 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (as per charge-sheet)
2. The prosecution story, in brief, is that on 04.08.2018 at about 08:00 AM, applicant took the prosecutrix, who is minor from the custody of her parents without their consent. The

present applicant developed sexual relationship with the prosecutrix, on the pretext of marriage. Mother of the prosecutrix lodged a report to the Police Station – Sihawa. After completion of investigation police has registered the offences as described above in para 1 of this order.

3. Learned counsel for the applicant submits that the applicant is innocent and has not committed any offence. He further submits that the prosecutrix was having affair with the applicant. He also submits that prosecutrix herself and her mother gave affidavit (Annexures P/2 & P/3) respectively wherein prosecutrix admitted that she performed marriage with the applicant of her own and out of wedlock she gave birth to a child. Learned counsel also submits that according to the affidavit of mother of the prosecutrix, the date of birth of the prosecutrix has wrongly been mentioned as 15.01.2002, whereas the exact date of birth of the prosecutrix is 15.01.1999, which clearly shows that she was a major at the time of incident. The applicant is in jail since 23.12.2018, therefore, the present appellant may be released on bail.
4. On the other hand, counsel for the State opposes the bail application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, and further considering the facts that the applicant is in jail since 13.12.2018 and the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
7. Accused/applicant is directed to be released on bail on his

executing a personal bond in the sum of Rs. 25,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to them by the said Court.

**Sd/-
(Rajani Dubey)
Judge**

Vijay Sahu