

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4381 of 2019

- Bhunu Sahu @ Bhuneshwar, S/o Lal Bahadur Sahu, Aged About 20 Years, R/o Village-Paragaon Kala, Police-Station-Dongargarh, District-Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police-Station-Dongargarh, District-Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rakesh Pandey, Advocate
For State/respondent	: Mr. Shrikant Gupta, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

02/09/2019

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.67/2019 registered at Police-Station-Dongargarh, District-Rajnandgaon(C.G.) for the offence punishable under Section 376 read with Section 34 of IPC and under Section 17 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. It is submitted that the prosecutrix had earlier lodged named FIR against the applicant, however, later on, she changed her version and named co-accused Rakhi Verma as the person, who had committed the offence of rape

with her. Before the trial Court also, the prosecutrix has changed her version in her cross-examination. Thus, it is clear that statement of the prosecutrix is not at all reliable or in other words wholly unreliable. Further the applicant is not charged with the offence of gang rape. He is not the offender of under Section 376A with 34, hence, it is prayed that applicant be granted regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that though there is some variation in the statements of prosecutrix but that needs appreciation and such appreciation can be done only trial Court in the course of trial. However, while deciding bail application under Section 439 of CrPC the reliability of any witnesses cannot be considered. Hence, applicant is not entitled for grant of regular bail.
4. Prosecutrix is present with her father Santosh Sahu & mother Rukmani Sahu. Prosecutrix and her parents had made a categorical statement that they have objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to FIR lodged, prosecutrix is minor of age 14 years only. It is alleged that on the date of incident this applicant along with co-accused persons caught hold of the prosecutrix and dragged her to an abandoned house where co-accused Rakhi Verma committed the offence of rape with her. Hence, this case.
7. Considered the submissions and all the material present in the case diary, which does not show that it is a case of no evidence. There is evidence with variations that needs appreciation, which can only be

done by the trial Court. Therefore, for the present, I do not find any reason to grant regular bail to the applicant.

8. Accordingly, this bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha