

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 4861 of 2019

- Vivek Jadhav (Vicky), S/o Late Khemrao Jadhav, Aged About 28 Years, R/o Devnagar, Chhoti Koni, Near Bilasa Tal Koni, District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police Station Koni, District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant	: Mr. Rajeev Kumar Dubey, Advocate.
For Non-applicant/State	: Mr. Kapil Maini, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-10-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is *repeat* bail application before this Court filed by the applicant for grant of regular bail. The earlier bail application MCRC No.2488/2019 was dismissed as withdrawn on 06.05.2019, with liberty to revive the same after examination of the prosecutrix. The applicant has been arrested on 23.12.2018 in connection with Crime No.384/2018, registered at Police Station– Koni, District- Bilaspur, Chhattisgarh for offence punishable under Sections 376, 498 and 506 of the IPC.
2. It is submitted by learned counsel for the applicant that the applicant has not committed any offence and he has been falsely implicated in the present case. The applicant is in jail since 23.12.2018. The trial is getting delayed because the prosecutrix is not yet examined, apart from that the prosecutrix has herself filed an application before the Sessions Court on 15.02.2019, stating that she has no objection in granting bail to the applicant, which has not been considered by the Sessions Court.

Copy of the order sheets has been produced to show that the prosecutrix is deliberately not appearing and the notice upon her could not be served, therefore, the applicant is languishing in jail, therefore, prayed that application be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has given the statement making allegations against this applicant, which are of serious nature, therefore, prayed that application be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, prosecutrix was married to one brother of this applicant who is an idiot (mentally retarded). It is alleged that taking benefit of the mental condition of his brother, this applicant used to exploit the prosecutrix sexually by putting her in threat. Hence, this case.
6. Considering, that it is nearly 10 months the applicant is in jail and on perusal of the order sheets it is found that the prosecutrix is not appearing as witness despite repeated issuance of notices against her, therefore, I feel inclined to grant bail to the applicant.
7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby 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/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

yasmin