

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5061 of 2019**

- Santosh Kumar Singh S/o Kishun Ram Aged About 21 Years, R/o Village Dundu Police Station Dhourpur, District Surguja, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Station House Officer, Police Station Dhourpur District-Surguja, Chhattisgarh.

---- Respondent

For Applicant : Mr. Nishikant Sinha, Adv.

For Respondent/State : Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****06.11.2019**

1. In pursuance to the order dated 27.09.2019, the complainant/informant is present today before this Court with his counsel. On being asked, he has made his objection regarding grant of bail to the applicant.
2. His presence be marked.
3. The accused/applicant has moved this first bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 26/2019 registered at Police Station Dourpur, District-Surguja (C.G.) for the offence punishable under Sections 376 (2) (n) of IPC and 5 L & 6 of POCSO Act.
4. The prosecution story, in brief is that, on 02.05.2019 a report was lodged by father of the prosecutrix that between 10.07.2018 and 25.04.2019, on pretext of marriage, the applicant committed sexual intercourse with prosecutrix. Due to which the prosecutrix became pregnant but the applicant denied to marriage with the prosecutrix and also denied the paternity of the child in her womb in the Panchayat held at village. Based on this offence has been registered against the

present applicant.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that the prosecutrix and her father has earlier lodged F.I.R. against another person namely Ajivan, alleging sexual offence of similar nature, which was registered as Criminal Case No. 61/2018 and trial was held before Juvenile Board, where in her statement u/s 164 of Cr.P.C. she supported the case of prosecution. However, when Ajivan was declared as juvenile, the prosecutrix turned hostile because she was pregnant due to her earlier relation. He further submits that no DNA test has been conducted by the prosecution to prove the guilt of the applicant. He next submits that the prosecutrix in her statement has not mentioned the name of the present applicant, the whole allegation was against one Ajivan Kujur. The statement of the prosecutrix is annexed as Annexure A-2. The applicant is in jail since 03.05.2019, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.
6. On the other hand, counsel for the State and complainant/informant oppose the bail application.
7. I have heard learned counsel for the parties and perused the case diary.
8. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, the detention period of the applicant and further considering the fact that however, the complainant/informant has made his objection regarding the bail of the applicant but no DNA test has been conducted by the prosecution to prove the guilt of the applicant, 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.
9. 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 him by the said Court.

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