

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5409 of 2019

Shiv Yadav, S/o. Shri Derha Yadav, Aged About 22 Years, R/o. Vinoba Nagar,
Near Sarswati Shishu Mandir Mungeli, Police Station City Kotwali Mungeli,
District Mungeli, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station : City Kotwali, District
Mungeli, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Dharendra Pandey, Advocate
For Respondent/State	: Mr. Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/10/2019

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.251/2018, registered at Police Station – City Kotwali, District – Mungeli (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Section 4, 6 of POCSO Act. The first bail application of the applicant was dismissed for want of prosecution on 04.01.2019 in M.Cr.C. No. 7448/2018.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 19.07.2018. The applicant has not committed any offence. The prosecutrix and other witnesses are not appeared before the trial Court because of which the applicant is languishing in jail without any fault on his part. Copy of the order sheet of the trial Court have been

produced to demonstrate the same. Therefore, it is prayed that during the pendency of trial, this applicant be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix in this case is a minor girl and she has made serious allegation against the applicant in her statement under Section 161 of Cr.P.C. and also under Section 164 of Cr.P.C. Therefore, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, on the date of incident when the prosecutrix of age about 16 years had been to the field for picking fire wood, then finding alone the prosecutrix, this applicant caught hold of her and forcefully raped her. Hence this case.
6. Considered on the submissions made and the contents of the case diary. On perusal of the order sheets of the trial Court it is found that charges were framed on 16.10.2018 and thereafter number of dates have been fixed for appearance of the prosecution witnesses, and on two occasions one of the witness was produced before the Court on production warrant, even then the witness was not examined by the Court without mentioning any reason for the same. Apart from that on perusal of the order sheets it appears that order sheets have been written in a very casual manner without taking care to verify whether the summons have been served or not. This Court takes notice of the casual approach of the trial Court and the same be conveyed to the Presiding Officer of the trial Court itself to be careful in future.

7. For the reason that after fixing of numerous date for examination of the witness not a single witness have been examined by the trial Court and the reasons aforementioned, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram