

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6794 of 2018**

Shivshankar Rajput S/o Late Bhagirathi Aged About 19 Years R/o Village
Parsada District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer Police Station
Pathariya District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh.

---- Respondent

For the Applicant : Shri Awadh Tripathi, Advocate.
For the Respondent/State : Shri Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.01.2019**

Heard.

1. This is the second bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn on 13.8.2018 in M.Cr.C. No. 5194 of 2018. The applicant has been arrested in connection with Crime No.122 of 2018, registered at Police Station – Pathariya, District – Mungeli, Chhattisgarh for the offence punishable under Sections 376(d) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 5.3.2018 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The prosecutrix has been examined before the

trial Court and she has not given any specific details of the act committed by this applicant and the juvenile offender. The eyewitnesses of this case have also been examined who have not supported the case of the prosecution. Apart from that, there is clear opinion of the examining doctor that there is no evidence of any sexual intercourse with the minor prosecutrix. Hence, for these reasons, it is prayed that the applicant be enlarged on 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 aged about 12 years and she has clearly given statement against the applicant. Hence, the applicant is not entitled for grant of regular bail.

4. Heard counsel for both the parties and perused the case diary.

5. The minor prosecutrix aged about 12 years has alleged in the complaint made by her that this applicant and the juvenile offender both have raped her. Hence, this case.

6. Considered the material present in the case-diary and also perused the certified copy of the deposition of the prosecutrix and other witnesses in this case. In the evidence of the prosecutrix it has not been explained what she meant by "dirty work" that was done with her and the medical evidence is negative. Hence, for these reasons, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge