

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7041 of 2019

- Ashwani Banjare S/o. Bhola Banjare Aged About 20 Years R/o. Village- Kosmanda, Police Station- Palari, District (Revenue And Civil)- Balodabazar-Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station- Palari, District (Revenue And Civil)- Balodabazar-Bhatapara Chhattisgarh

---- Respondent

For Applicant : Mr. Sumit Jhawar, Advocate.
For Respondent/State : Mr. Sushil Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

19/11/2019

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 626/2018, registered at Police Station –Palari, District- Balodabazar-Bhatapara (C.G.) for the offence punishable under Section 363, 366 & 376 of the IPC and Section 4 of the POCSO Act.
2. First bail of the applicant was dismissed as withdrawn with liberty to file a fresh after examination of the prosecutrix before the Trial Court vide order dated 14.08.2019, passed in MCRC No. 4731/2019.

3. In this case, at the relevant time, age of the prosecutrix was about 16 years. As per prosecution story, on 06.12.2018, father of the prosecutrix lodged a missing report of his daughter in concerned police station. On the basis of said report, initially offence under Sections 363 & 366 of the IPC have been registered. During course of investigation, on 01.06.2019, prosecutrix was recovered and her statement was recorded. On the basis of her statement, offence under Section 376 of the IPC and Section 4 of the POCSO Act have been added. The applicant is in custody since 01.06.2019.
4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. Virtually there was a love relationship between the applicant and the prosecutrix due to that the prosecutrix left her house on her own will. He further submits that they both have performed marriage in temple and were living together as a husband wife for about 6 months. Presently, the prosecutrix is residing with parents of the applicant. He further submits that as per the prosecution story, age of the prosecutrix was about 16 years at the relevant time but, from the statement of the prosecutrix and her mother, it is well established that at the time of incident, she was more than 18 years. Since, the prosecutrix was a major lady and due to love relationship, she herself left her house, therefore, no offence can be made out against the applicant. He finally submits that the applicant is in custody since 01-06-2019 and trial is likely to take some time. Therefore, the applicant may be released on bail.
5. Per contra, learned counsel appearing on behalf of State opposes the bail application.
6. I have heard learned Counsel for both the parties.

7. Considering the facts and circumstances of the case and evidence collected by the prosecution, further considering the fact that from the statement of the prosecutrix and her mother, it is well established that at the time of incident, she was more than 18 years and due to love relationship, she herself left her house, the applicant is in custody since 01-06-2019 and trial is likely to take some time, without further commenting on other merits of the case, I am inclined to release the applicant on bail.
8. Accordingly, the bail application is allowed.
9. It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge