

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7232 of 2019

- Ram Niwas, S/o Hublal Panika, Aged About 20 Years, R/o Raikoba, P.S. - Jaitpur, District-Sahdol, Madhya Pradesh.

---- Applicant

Versus

- State of Chhattisgarh Through P.S. Janakpur, Distt.-Koriya Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pushkar Sinha, Advocate.
For Respondent/State	:	Mr. Sanjay Pathak, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

28/11/2019

1. This is the 2nd bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. His first application bearing MCRC No.5122 of 2018 was dismissed as withdrawn on 9.8.2018.
2. This bail application has been 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.34/2017 registered at Police Station– Janakpur, District–Koriya(C.G.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC, Section 6 of the POCSO Act and Section 3(2)(v) of the S.C. & S.T. (Prevention of Atrocities Act.)
3. It is submitted by the learned counsel for the applicant that applicant was regularly appearing before the trial Court, however, on 14.8.2019 when the applicant was represented by his counsel, the prosecutrix made a complaint to the Court regarding threat given by the applicant

and because of which the application for representation through his counsel was rejected and warrant was issued for his arrest and accordingly, the applicant was arrested on 12.9.2019 and sent to jail. The application filed by applicant for grant of bail before the trial Court has also been rejected vide order dated 13.9.2019 ignoring the fact that the bail order of this applicant has not been cancelled or modified by this Court. Hence, it is prayed that application be allowed.

4. Learned State counsel opposes the application and submissions made in this respect.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. The applicant was granted bail by this Court vide order dated 9.8.2018 passed in MCRC No.5122/2018. The trial Court was not in a position to cancel the order passed by this Court as the same could have been cancelled only by this Court or higher Court. Cancellation of bail bond by the trial Court is, however, permissible, but thereafter on appearance of the accused, if he prays for release on bail as per terms and conditions laid down in the order granting bail, then the said prayer could not have been refused by the trial Court. In these circumstances, the order passed by the trial Court rejecting application for grant of bail to the applicant is found to be erroneous.
7. In view of above, this application is allowed and it is ordered that if the applicant is ready to furnish bail bonds in accordance with the order dated 9.8.2018 passed in MCRC No.5122 of 2018 before the trial Court, he be released on bail accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge