

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9935 of 2018

- Arvind Soni S/o Late Santosh Soni Aged About 33 Years R/o Subhash Ward Mungeli, District Mungeli Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Mahila Thana District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	: Mr. Dheerendra Pandey, Advocate.
For Respondent/State	: Mr. Amit Singh, PL.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

12/03/2019

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. 47/2018, registered at Police Station Mahila Thana, District Bilaspur (C.G.) for the offence punishable under Sections 376 of the IPC and Section 3, 4 & 5 (ढ)(ढ) 6, 7 & 8 of the POCSO Act.
2. First bail was dismissed as withdrawn with liberty to file a fresh after examination of mother of the prosecutrix vide order dated 27.11.2018 passed in MCRC No. 8463/2018.
3. In this case prosecutrix is the daughter of the applicant, at the relevant time age of the prosecutrix is about 3 ½ years. As per prosecution story, on 03.08.2018, a written complainant has been made by mother of the prosecutrix namely Tarni Soni, wherein, it has been alleged that prior to 15 days from lodging the FIR, the applicant inserted a finger in private part of the prosecutrix and committed sexual assault with her. On the basis of said complainant, offence has been registered against the applicant and he has been arrested on 04.08.2018.

4. Learned counsel appearing on behalf of the applicant submits that the applicants is innocent and has been falsely implicated in the present case due to some dispute with her wife. He further submits that due to very small age of prosecutrix, she is not capable to examine before the Trial Court but, her mother Tarni Soni, her grand mother Santoshi Soni maternal aunt of prosecutrix Ahilya Soni and grand father of the prosecutrix Roshan Soni have examined before the Trial Court and they have not supported the case of the prosecution and turned hostile. The applicant is in custody since 04-08-2018, charge-sheet has been filed 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 the above mentioned family members of the prosecutrix have examined before the Trial Court and they have not supported the case of the prosecution and turned hostile, the applicant is in custody since 04-08-2018, charge-sheet has been filed and trial will likely to take some time, without further commenting on 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 applicants shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- 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