

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 47 of 2020

Kaushik S/o. Vishnu Dadsena Aged About 26 Years R/o. Village- Baldidih,
Thana- Sankara Jonk, District- Mahasamund, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh, Through- Police Station- Basna, District-
Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Samir Singh, Advocate
For Respondent/State	: Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/03/2020

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.364/2019, registered at Police Station – Basna, District – Mahasamund (C.G.) for the offence punishable under Section 376 (2) (n) of the Indian Penal Code and U/s. 6 of Protection of Children from Sexual Offences Act, and Section 3 (2) (v) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act. The first bail application of the applicant was dismissed as withdrawn vide order dated 24.09.2019 in M.Cr.C. No.5281 of 2019 with liberty to repeat the same after examination of the prosecutrix.
2. It is submitted by the learned counsel for the applicant that circumstances have changed in this case as the prosecutrix has been

examined before the trial Court and she made certain admission in favour of the applicant. It is also submitted that the prosecutrix was major at the time of incident and the physical relation of the applicant with her was based on consent. Therefore, no case is made out against the application. Hence, it is prayed that this applicant may be released on regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the submissions made in this respect. It is submitted that according to the school register entry, the prosecutrix was a minor on the date of incident and also it is a case where the applicant has obtained consent of the prosecutrix by deceit, therefore, he 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, about two years before lodging of FIR, the applicant who acquainted with the prosecutrix had promised that he will marry her and had made physical relation with her. Subsequent to that the prosecutrix got married even then the applicant kept relation with her. Thereafter, the applicant refused to maintain the relationship with the prosecutrix, subsequent to that FIR has been lodged.
6. Considered on the submissions made and the contents of the case diary. After considering the evidence present in the case diary, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram