

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1067 of 2020**

- Masih Prakash S/o Atal Ram Aged About 27 Years Caste Uraon, R/o Village Barbaspur, Police Station And Tahsil Ramnujnagar, District Surajpur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Ramnujnagar, District Surajpur Chhattisgarh.

---- Respondent

For Applicant. : Mr. R.V. Rajwade, Advocate.
 For Respondent/State : Mr. Devesh Verma, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****29.05.2020**

1. The applicant has filed this **Second Bail Application** filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in connection with Crime No. 110/2019 registered at Police Station : Ramanujnagar, District- Surajpur (C.G.) for the offence punishable under Sections 363, 366, & 376 (घ, ढ) of the IPC and Sections 4 & 6 of the POCSO Act.
2. On 29.11.2019, passed in MCRC No. 6358/2019, the first bail application of the applicant had been dismissed as withdrawn with liberty to renew the same after evidence of the prosecutrix.
3. The prosecution story in brief is that, on 13.06.2019, when prosecutrix was in a marriage function, at that time the applicant caught hold her hand and handed over to co-

accused Umashankar. The co-accused Umashankar took her near the pond and committed sexual intercourse with her. Thereafter, present applicant also reached there and committed sexual intercourse with her. Based on that, after investigation, offence has been registered and he has been arrested.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question because he was not involved in any such incident. In his defence, learned counsel for the applicant produced some documents i.e. Anganbadi Register (Annexure A/4) which shows that the age of the prosecutrix is above 18 years. He further submits that the said co-accused Umashankar was working in the house of prosecutrix and there was love affair between them. The prosecutrix was major at the time of incident. The applicant is in jail since 14.06.2019 and he is ready to furnish adequate surety and shall abide by all the conditions and directions, which may be imposed by this Hon'ble Court, therefore, he may be released on bail.
5. On the other hand, State counsel strongly opposes the bail application submitting that the prosecutrix was brutally raped by present applicant and co-accused person, therefore, the present applicant may not be granted bail.
6. I have heard learned counsel for the parties and perused the record.
7. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case and age of the prosecutrix, as applicant is in jail since 14.06.2019 and the

trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

8. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the said Court on each and every date given to him by the said Court.
9. It is made clear that if the applicant has already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23.03.2020 in the matter of **in Re : Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), he need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if he has not furnished the bail bonds earlier, then he will be required to furnish bail bonds within four weeks from today.
10. Certified copy, as per rule.

**Sd/-
(Rajani Dubey)
Judge**