

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2951 of 2020**

- Jawahar Lal Sahu, S/o Late Vijay Kumar Sahu, Aged about 27 years, R/o Pithampur, PS Lormi, District Mungeli (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, Through – SHO, Police Station- Lormi, District Mungeli (C.G.)

---- Respondent

For Applicant : Mr. Lukesh Kumar Mishra, Advocate.
 For Respondent/State : Mr. Raghvendra Verma, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****24.06.2020**

- The accused/applicant has moved this second bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 190/2019 registered at Police Station- Lormi, District- Mungeli (C.G.) for the offence punishable under Sections 376, 354 and 354(A) (1)/34 of I.P.C., 1860 and under Section 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
- The first bail application of the applicant before the Hon'ble Court vide MCRC No. 4268/2019 which was dismissed as withdrawn with liberty to file after appropriate stage vide order dated 01.08.2019.
- The prosecution story, in brief is that, on 27.04.2019, the prosecutrix lodged a written report that rape was committed on her and in May, 2018, co-accused Devi Prasad tried to outrage the modesty of her daughter Linima. After a year of the said incident, she lodged the present FIR against the applicant and other accused. It is pertinent to mention here that the prosecutrix was working lady and was working as Secretary of a Women Self-help Group called *Jai Mahamaya Mahila Swa-Sahayata Samuh* and she after the said incident also, remained with the

co-accused Bhaskar Sahu and till January, 2019 her children regularly attended their school session which shows that the present FIR has been lodged with mal-intent to implicate the accused in false case. It is also pertinent to mention here that during the said period, she lodged another complaint before the concerned police station- Lormi, but no such incident has been stated by her. It is also pertinent to mention here that during that period several panchayats were also held due to the quarrel between the prosecutrix and her husband, but no such incident was ever stated by the prosecutrix before the Panchayat.

- Learned counsel for the applicant submits that the applicant has not committed any offence alleged upon him and he is falsely been implicated in this case. He further submits that all witnesses of this case have been turned hostile before trial Court and the other co-accused Ramesh Sahu has been enlarged on bail by this Hon'ble Court in MCRC No. 291/2020 vide order dated 25.02.2020 so, the present applicant may also be granted benefit of bail. He next submits that the applicant is in jail since 28.04.2019, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.
- On the other hand, counsel for the State opposes the bail application.
- I have heard learned counsel for the parties and perused the case diary.
- Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, and further considering the facts that all independent witnesses have not supported the prosecution case before trial Court and the other co-accused has been granted bail in MCRC No. 291/2020 vide order dated 25.02.2020. The present applicant is in jail since 28.04.2019 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.

- 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/remand Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.
- 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), they 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 they have not furnished the bail bonds earlier, then they will be required to furnish bail bonds within four weeks from today.
Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge

Vasant