

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1935 of 2020

Vishwanath Singh, S/o Thibu Singh, Aged About 48 Years, R/o Village Baknakala, Thana Lundra, District- Surguja (C.G.) --- **Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Lundra, District- Surguja (C.G.) --- **Respondent**

For Applicant : Mrs. Indira Tripathi, Advocate.
For State/ Respondent : Mr. Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24/06/2020

1. This is the first 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. 144/2019, registered at Police Station- Lundra, District- Surguja (C.G.) for the offence punishable under Section 304/34, 314/34, 315/24 of IPC & Section 21 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 05.12.2019 and has been falsely implicated in this case. No case is made out against the present applicant. This applicant is father of the main accused, who is juvenile in conflict with law. This applicant took responsibility of the minor prosecutrix as the prosecutrix was pregnant, therefore, her delivery was carried out with the help of trained nurse and midwife, who are co-accused in this case. A female child was

born in delivery, who lived for about 18 days. The prosecutrix could not survive and she died because of excessive bleeding. The case of the prosecution that the applicant had attempted to abort pregnancy of the deceased-prosecutrix at advance stage, is totally false. It is further submitted that the nurse and midwife, against whom, the prosecutrix has made allegation, have been granted bail this Court as well by the Co-ordinate Bench of this Court, hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that according to the statement of the witnesses, because of sexual exploitation made by the minor son of this applicant, the minor prosecutrix became pregnant. This applicant took responsibility of the minor prosecutrix and then he made attempt to abort the pregnancy of the minor prosecutrix at advance stage. It is for the reason that the procedure of that abortion failed, the prosecutrix in this case has expired, therefore, this applicant is not entitled for grant of bail, hence, the application for grant of bail may be rejected.
4. Heard counsel for both the parties and perused the records.
5. As per case of the prosecution, the prosecutrix in this case, is juvenile in conflict with law, exploited the minor prosecutrix on pretext that he will marry her in future. The prosecutrix became pregnant and the pregnancy was in advance stage of about 7-8 months. It is alleged that this applicant and the other co-accused persons collaborated to get the pregnancy of the prosecutrix aborted at the advance stage, which failed because of which the

prosecutrix expired.

6. According to the material placed in the case diary, it is fact that a female child was born to the minor prosecutrix, who lived for about 18 days, therefore, procedure carried out with respect to the prosecutrix was abortion or it was delivery of child, is a disputed fact, which may be established in the trial. The other fact which cannot be ignored is that the co-accused Gloria Kispotta, trained nurse, who was engaged in this procedure and also midwife Loharin Alias Tubal Bai, have been granted bail, therefore, I am of the view that it would be proper to release the applicant on regular bail, hence, I feel inclined to grant bail to the applicant in this case.
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