

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3235 of 2020

- Khemraj Joshi, S/o Yashwant Joshi, Aged About 18 Years, R/o Dokrabhatha, Police-Station-Chhuikhadan, Tahsil Khairagarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Chhuikhadan, District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	: Mr. Abhishek Sharma, Advocate.
For State/respondent	: Mr. D.P. Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

17/08/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.99/2020 registered at Police -Station-Chhuikhadan, District-Rajnandgaon(C.G.) for the offence punishable under Section 306, 376of IPC and Section 4 & 8 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant is in jail since 20.5.2020. No case is made out against the applicant. The applicant and minor prosecutrix both had love affair. The minor prosecutrix consumed some poisonous substance on 21.11.2019. Her

dying declaration was recorded on 22.11.2019 by Executive Magistrate ,in which, she although stated that she became upset because of being scolded by the applicant, but she did not make any allegation about of sexual abuse. The minor prosecutrix was discharged from the hospital on 26.11.2019, therefore, it was a case of only attempt to commit suicide. The minor prosecutrix again was admitted to hospital in the month of December, 2019 on account of some illness. She died on 11.12.2019. It is submitted, that it is not a case of abetment to commit suicide. The postmortem report also does not mention of any specific cause of death of the deceased prosecutrix. The case against the applicant is concocted after passing of more than 4 months one suicide letter has been allegedly seized from the school teacher Ramkrishan Narkar on 21.3.2020, regarding which there is no mention in the statement of that teacher under Section 161 CrPC, therefore, the case against the applicant is totally concocted, hence, it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the suicide note left by the minor prosecutrix specifically mentions about the love affair and that she was abused sexually by the applicant. It mentions that the applicant shared with his friends the details of his relations with the prosecutrix because of which she got mentally harrassed and made an attempt to commit suicide. The evidence is present, therefore, the application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.

5. As per the prosecution case, it is alleged that this applicant enticed the minor prosecutrix and exploited her sexually, thereafter when the prosecutrix asked him to marry her the applicant abused her. The minor prosecutrix then consumed some poisonous substance and was admitted to the hospital. Although, she was discharged from the hospital after treatment, but after sometime she was again indisposed and died during the course of treatment. The suicide letter has been seized by the police according to which the case has been registered against the applicant.
6. Considered on the submissions and also the facts of the case. The postmortem report does not mention of any specific reason and also there appears to be delay in seizure of the suicidal note which has also not been examined by any Hand Writing Expert, hence, I feel inclined to allow the bail application of this applicant.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge