

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3544 of 2020

- Om Prakash Gupta, S/o. Late Girdhari Lal Gupta, Aged about 52 years, R/o. Near Krishna Hospital, New Rajendra Nagar, PS New Rajendra Nagar, Raipur, District Raipur CG

---- Applicant

Versus

1. State Of Chhattisgarh Through The Police Station- Mahila Thana, District Raipur Chhattisgarh.
2. Ku. Purnima Yadav, D/o. Deuram Yadav, Aged 16 years, Through Natural guardian Namely Deuram Yadav, S/o. Ghasiya Ram Yadav, Aged about 42 years, R/o. Village Gotulmunda, PS Mohla, District Rajnandgaon (CG)

---- Respondents

For Applicant	: Ms. Minakshi Arora, Sr. Advocate assisted by Shri Prafull N.Bharat, Advocate
For Resp. No.1/State	: Shri Amrito Das, Addl. AG
For Resp. No.2/Complainant	: Shri Ashish Shukla, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order On Board

14/08/2020

The applicant has filed this second application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is in custody in connection with Crime No. 03/2020 registered at police station Mahila Thana, district Raipur (CG) for the offence punishable under Sections 370,370A(1), 376, 376(3), 376(2)(f), 376(C), 506-II/34

and 323 IPC: Section 4 and 6 of the Protection of Children from Sexual Offences Act and Sections 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act.

As per prosecution case, the prosecutrix a minor, was brought by her father to Raipur to the house of the applicant for her education in the year 2016. It is alleged that while staying there, she used to give massage to the applicant and his wife as also used to help in the domestic work. Further case of the prosecution is that the applicant sexually exploit and harassed the minor (prosecutrix) after threatening her of life on several occasions. It is alleged that when the prosecutrix tried to disclose about the incident to her parents, she came to know that the applicant used to give money to her father and in turn they pressurized her to withdraw the case therefore she did not disclose anything to her parents.

Counsel for the applicant submits that the applicant has been falsely implicated in the case. It is submitted that due to political rivalry, the applicant has been implicated in a false case. It has been further submitted that the charge sheet has been filed and the prosecution has failed to putforth any concrete and probable allegation against the applicant. It is submitted that the complainant herself is not consistent in making her statement. Lastly, she submits that the applicant is in jail since 09.1.2020 and in view of the prevailing circumstances of pandemic of COVID-19 and further looking to the conduct of the prosecution it is clear that the trial will take time for its conclusion, therefore he may be granted bail.

On the other hand counsel for the State opposes the bail application and submits that the complainant has objection if the

applicant is granted bail. He submits that letter dated 22.07.2020, has been sent to the Registrar, High Court of Chhattisgarh as also to the office of the Collector mentioning that she is being threatened of her life by the applicant.

Counsel for the respondent No.2 submits that the parents of the complainant were not permitted to meet her as she was kept in a Child Welfare Centre at Rajnandgaon.

On the earlier date, i.e. 10.08.2020, the complainant as well as her parents were directed to remain present today through Video Conferencing. The complainant made a statement that she has objection if the applicant is granted bail.

Heard counsel for the parties.

On 20.07.2020 when the case was listed for hearing, the complainant and her parents were present through Video Conferencing and they have stated that they have no objection if the applicant is granted bail. Subsequently, on 10.08.2020, it was submitted by the State counsel that a letter has been received stating that the complainant has objection if the applicant is granted bail. Thus, considering the submissions and the facts of the present case, particularly, the fact that the applicant used to sexually exploit a minor, who was kept for giving massage to him and his wife, in addition to help in domestic work, that too, after threatening her for life, I am not inclined to release him on regular bail. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

Sd/-
(Rajani Dubey)
Judge