

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7218 of 2020

- Arun Kosle, S/o Laxman Kosle, Aged About 24 Years, R/o Vill. Gogoan, Purani Basti, Near Samudayik Bhavan, P.S.- Gudhiyari, Dist- Raipur (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through P.S.- Gudhiyari, Distt. Raipur (Chhattisgarh).

---- Respondent

For Applicant	: Mr. Devershi Thakur, Advocate.
For State/respondent	: Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/11/2020

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.08/2018 registered at Police-Station-Gudhiyari, District-Raipur, (C.G.) for the offence punishable under Sections 363, 366, 376(D) of IPC and Section 4 & 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case because of the enmity with the father of the prosecutrix. The prosecutrix was recovered by the Nagpur police and was transferred to the Children Home at Nagpur. From 14.3.2017 onwards, her statement was

recorded by the authorities of Children Home for about 5 times, in which, she did not name the applicant. The prosecutrix was then transferred to the Children Home in Baloda-Bazar on 14.8.2017. In her first statement, she again did not name the applicant. The prosecutrix was then taken in custody by her father. Prosecutrix for the first time on 23.11.2017, came with her father and made a statement to the Superintendent of Child Welfare Committee, that she was sexually exploited by this applicant and one another Deepak Gond. Police complaint was given, on the basis of which FIR has been lodged on 6.1.2018. Hence, on the basis of the development that has taken place in the statement of the prosecutrix, it is clearly made out that the case against the applicant is concocted. He is in jail since 31.7.2020, hence, the applicant 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 prosecutrix is consistently making statement since her first statement before the Superintendent of Child Welfare Committee and then under Sections 161 & 164 of CrPC, that applicant was the person who along with the co-accused has gang raped her, therefore, the allegations are clear. The prosecutrix is minor and she has also identified the applicant in the TIP (Test Identification Parade), hence, no case is made out for grant of bail to the applicant.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, the prosecutrix was abducted by the co-accused Deepak Gond on 13.3.2017, who was taken to a lonely place

where he and this applicant both raped her. The prosecutrix was taken to the railway station and then the co-accused Deepak Gond took her in a train to Nagpur where she was abandoned. The parents of the prosecutrix have stated that the prosecutrix is mentally retarded.

6. Considered on the submissions and facts present in the case, I am of this view that this is not a fit case for grant of bail to the applicant.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha