

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 46 of 2020**

- Hemchand Halva S/o Danuram Aged About 29 Years R/o Kotera, Police Station Dindilohara, District Balod, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O. Dindilohara, District Balod, Chhattisgarh.

---- Respondent

For Applicant. : Mr. Hemant Gupta, Advocate.
 For Respondent/State : Mr. B.L. Sahu, PL

Hon'ble Smt. Justice Rajani Dubey**Order on Board****13.02.2020**

1. The accused/applicant has moved this first bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 85/2019 registered at Police Station - Dindilohara District Balod (C.G.) for the offence punishable under Sections 363, 363A, 376, 120-B of IPC and Sections 5(२) & 6 of POCSO Act.
2. The prosecution story in nutshell is that, father of the prosecutrix lodged a missing report of his daughter, aged about 17 years 5 months, before the concerned police station. After completion of investigation, applicant has been arrested. The allegation against the present applicant is that, he enticed the prosecutrix, took her away with him and on the pretext of marriage, committed sexual intercourse with her and further continuously & repeatedly did the same. Based on that, offence has been registered against the applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further submits that the applicant had filed an application under Section 439 of the Cr.P.C. before the trial Court. On that day, some dispute arose between the applicant and his counsel and learned trial Court, without going on merit, summarily dismissed his application. He also submits that applicant is in jail since 30.05.2019 and he is ready to furnish adequate surety and shall abide by all the conditions and directions, which may be imposed by this court, therefore, the present applicant may be released on bail.
4. Per contra, State counsel opposes the bail application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, age of the prosecutrix and particularly the order of the trial Court dated 15.10.2019 in which learned trial Court dismissed the applicant's application without considering the facts on merit, as the applicant is in jail since 30.05.2019 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.
7. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the said Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**