

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8468 of 2019

- Avinash Shrivastava S/o Pannalal Shrivastava, Aged About 35 Years, R/o Club Para, Ward No.26, Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through Police Station Mahasamund, District Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

----Non-applicant

For Applicant – Shri Gurudev I. Sharan, Advocate.

For Non-applicant/State – Shri Raveesh Verma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-06-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 19-09-2019 in connection with Crime No.370/2019 registered at Police Station – Mahasamund, District Mahasamund, Chhattisgarh for the offence under Section 370(a), 372, 373, 376, 34 of the IPC and Section 06, 17 of POCSO Act.

2. It is submitted on behalf of the applicant that the applicant is innocent and has been falsely implicated in this case. There had been a delay in lodging of the FIR. The investigation is complete and charge sheet has also been filed. The applicant is suffering from cancer disease since 1999 and his treatment is still going on. During his detention the applicant was admitted in Dr. B.R. Ambedkar Memorial Hospital, Raipur (C.G.) on 19-11-2019 and he has been treated for his illness. It is submitted that the applicant is not getting proper treatment in jail, the applicant needs constant follow up with the medical experts. Therefore, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

and submits that according to the merits of the case, this applicant has no entitlement for grant of bail. It is further submitted that a report has been called from the jail regarding the medical condition of the applicant, in which it has been reported that there is no significant abnormality present. Therefore, there is no requirement of any medical treatment or follow up. Hence, it is prayed that this application may be rejected.

4. Heard learned counsel for the parties and perused the documents.

5. As per the prosecution case, the minor prosecutrix of about 17 years age had physical relation with one Ghanshyam Sahu. Fulan Patel and Laxmi Patel came to know about this relationship and then by putting the prosecutrix under threat they pressurized her to have physical relation with other persons for which payment was received by Fulan Patel and Laxmi Patel. The prosecutrix has alleged that in continuation of this forcible flesh trade this applicant was one of the persons who has raped her in between January, 2017 to May, 2019.

6. It is a case in which the minor prosecutrix has been forcefully subjected to flesh trade and that the applicant had been one of the customers. One similarly placed co-accused Sandeep Tamboli had applied for bail which has been rejected by coordinate Bench of this Court. Therefore, under the present circumstances and looking to the seriousness of the allegations, the applicant is not entitled for grant of bail on merits of the case.

As regards the prayer for bail on medical ground, it is found that according to the medical report, the applicant had been a patient of Hodgkin's lymphoma. The applicant had been admitted for treatment in Dr. B.R. Ambedkar Memorial Hospital Raipur (C.G.) in the cancer department and detail investigation have been made and a report has been given by the committee of medical personnels which shows the impression that no significant abnormality is seen and there is no advice of any follow up. Therefore, presently there is

no advice given to pursue any type of treatment. Hence, I am of this view that it is not a fit case for grant of bail on this ground as well.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge