

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1368 of 2021**

Arun Kosle, S/o. Laxman Kosle, aged about 24 years, R/o. Village Gogaon, Purani Basti, Near Samudayik Bhavan, P.S. Gudhiyari, District Raipur (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, P.S. Gudhiyari, District Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Devershi Thakur, Advocate

For Respondent/State : Mr. Ashish Tiwari, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/06/2021

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.08/2018, registered at Police Station – Gudhiyari, District – Raipur (C.G.) for the offence punishable under Section 363, 366, 376(D) of the Indian Penal Code, Section 4 & 6 of Protection of Children from Sexual Offences Act. The first bail application M.Cr.C. No. 7218 of 2020 is dismissed on merits vide order dated 26.11.2020.
2. It is submitted by the learned counsel for the applicant that the innocence of the applicant has been established in the trial as the prosecutrix has been examined and she has not made a single statement against this applicant in her deposition before the Court and

on that point the prosecutor has declared her hostile, therefore, there is no case present against this applicant. This is change in circumstances, therefore, it is prayed that this applicant be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the case diary is not available, however, according to the facts shows in the rejection order and also the facts mentioned in the earlier order of this Court in M.Cr.C. No. 7218 of 2020 dated 26.11.2020, the applicant is not entitled to be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The prosecution case against this applicant and the other co-accused was for offence of gang rape. The facts of the same are mentioned in the previous order dated 26.11.2020.
6. Considered on the submissions. As claimed that circumstances have changed. The certified copy of the deposition of the prosecutrix is perused. It is found that the prosecutrix has not made any statement against this applicant in her Court statement and therefore, she was declared hostile by the prosecutor. Looking to this development in the case, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram