

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3832 of 2021

- Kirti Kumar Sharma S/o Ramavatar Sharma, Aged About 45 Years R/o Barela, Police Station Jarhagaon, District Mungeli Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Jarhagaon, District Mungeli Chhattisgarh

---- Non-applicant

For Applicant : Mr. Malay Shrivastava, Advocate.

For Non-applicant/State : Mr. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the fourth bail application filed for grant of regular bail. The first bail application in M.Cr.C. No.4676 of 2019 was dismissed for want of prosecution on 16.08.2019. Second application in M.Cr.C. No.547 of 2020 was dismissed on merits on 28.01.2020, whereas the third bail application in M.Cr.C. No.4781 of 2020 has again been dismissed vide order dated 02.09.2020. The applicant has been arrested on 25.06.2019, in connection with Crime No.89/2019, registered at Police Station— Jarhagaon, District- Mungeli, C.G. for offence punishable under Sections 294, 354, 354(A) of I.P.C. and under Sections 9 and 10 of POCSO Act, 2012 and Section 3(1)(b) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989.

2. It is submitted by the learned counsel for the applicant that the applicant

is innocent and has been falsely implicated in this case. The applicant is in jail since 25.06.2019. The applicant, who was a teacher, has lost his job. The victims who have made allegations against this applicant have been examined in the trial and none of them have supported the prosecution case. Therefore, looking to this circumstance and also the length of detention of the applicant in jail, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submissions made by the learned counsel for the applicant and submits that the ground of hostility of the prosecution witnesses was earlier raised before this Court which has been considered and on that basis, the previous applications of this applicant have been rejected, therefore, that ground cannot be reconsidered.
4. It is also submitted that some of the witnesses have deposed before the Court in support of the prosecution case, therefore, there is no case present for grant of bail to the applicant.
5. On 19.07.2021, eleven minor victims were virtually present through the Help Desk of D.L.S.A. Mungeli and three minor victims were present through the Help Desk of this High Court and all of them had made a statement of no objection in grant of bail to this applicant.
6. Heard learned counsel for the parties and perused the case diary.
7. The applicant is being prosecuted for maligning and outraging the modesty of 16 victims. Reference has been made regarding examination of some of the victims in trial this ground was argued in M.Cr.C. No.547 of 2020 and also in the M.Cr.C. No.4781 of 2020, which were taken into consideration and the Court has declined to grant bail to the applicant. Therefore, the ground of hostility of the witnesses cannot be reconsidered or reviewed by this Court.

8. The only other ground that is present is this that the applicant is in jail since about more than 2 years and the trial against him is still pending. The pandemic situation is continuing and there are still a number of witnesses to be examined in the trial. Hence, only for the reason that the trial is getting delayed, I feel inclined to allow this application.
9. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.
10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge