

(2018) 08 CHH CK 0079

Chhattisgarh High Court

Case No: Miscellaneous Criminal Case (MCRC) No. 5596 Of 2018

Mubarak Khan

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Aug. 3, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 115, 363, 366, 366-, 376(2)(), 376()
- Code Of Criminal Procedure, 1973 - Section 439
- Protection Of Children From Sexual Offence Act, 2012 - Section 5(), 6, 11, 18, 17

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Ishwar Jaiswal, Shashank Thakur

Final Decision: Allowed

Judgement

P. Sam Koshy, J

1. The present is a repeat application filed under Section 439 of CrPC seeking for grant of bail to the Applicant who is in jail since 23.11.2017 in

connection with Crime No. 156/2017 registered at Police Station- Sitapur, District- Surguja, for the offence punishable under Sections 363, 366-,

376(2)(), 376()/34, 366, 115 of IPC and Section 5(), 6, 11, 18, 17 of the POCSO Act.

2. The earlier bail application stood dismissed as withdrawn on 8.3.2018 in M.Cr.C. No. 248/2018, with liberty to the Applicant to revive the same

after the prosecutrix is examined.

3. Learned Counsel for the Applicant submits that the Prosecutrix in the instant case has since been examined before the Trial Court as PW-4 on

18.7.2018 and during the course of hearing the Prosecutrix has turned hostile and as such she has not supported the case of the prosecution and the present Applicant even otherwise is in jail since 23.11.2017 and therefore the Applicant may be released on bail.

4. Learned Counsel for the State however opposes the bail application on the ground that though the Prosecutrix has turned hostile but there are several other materials to establish the case against the Applicant from her cross-examination.

5. Having heard the contentions put forth on either side and on perusal of record, considering the fact that the Prosecutrix herself has turned hostile and has not supported the case of the prosecution, this Court is of the opinion that *prima facie* a strong case is made out for grant of bail to the Applicant.

6. Accordingly, the application for grant of bail is allowed. It is ordered that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed by the Trial Court.