

(2018) 08 CHH CK 0381

Chhattisgarh High Court

Case No: Miscellaneous Criminal Case (MCRC) No. 5728 Of 2018

Deepak Kumar Bareth

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Aug. 31, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 363, 376
- Code Of Criminal Procedure, 1973 - Section 439
- Protection Of Children from Sexual Offences Act, 2012 - Section 4

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Paras Mani Shriwas, Ratan Pusty

Final Decision: Allowed

Judgement

P. Sam Koshy, J

1. The present is an application filed under Section 439 of CrPC seeking for grant of bail to the Applicant who is in jail since 7.3.2018 in connection

with Crime No. 36/2018 registered at Police Station- Saragaon, District Janjgir-Champa, for the offence punishable under Sections 363, 376, 34 of IPC and Section 4 of the POCSO Act.

2. Allegation against the Applicant as per the prosecution is that the Applicant in connivance with the co-accused Kisan Diwaker is said to have abducted the Prosecutrix, a minor girl, and took her to an isolated place where one of the accused persons is said to have committed the offence of rape with the prosecutrix.

3. Learned Counsel for the Applicant submits that against the Applicant there is no allegation of having assaulted the Prosecutrix or having ravished her, neither is there any statement so far as of rape having been committed by the Applicant. The Counsel further submits that the only allegation against the Applicant is that the co-accused Kishan Diwaker and the Prosecutrix were given lift by the Applicant on his motorcycle. He thus prayed for the Applicant to be released on bail.

4. This aspect is not disputed by the Learned Counsel for the State. However, he opposes the bail application on the ground that the Applicant has been identified by the Prosecutrix insofar as the abduction is concerned and therefore the Applicant may not be released on bail.

5. Considering the entire facts and circumstances of the case, particularly the fact that the main accused against whom the allegation of rape has been made has already been enlarged on bail by this Court on 12.7.2018 in M.Cr.C. No. 4203/2018 and that there is no allegation of rape against the present Applicant and that the Applicant has already remained in custody for almost about six months, 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. Any observation made by this Court should not prejudice the trial in any manner.