

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3537 of 2015

- Shivkumar Paikra S/o Ravikumar Paikra aged about 30 years R/o Village Kotsari, PS Rajpur, Dist. Balrampur-Ramanujganj (Chhattisgarh)

---- Applicant

Versus

- State of Chhattisgarh Through: The Station House Officer, Police Station PS Rajpur, District Balrampur-Ramanujganj (Chhattisgarh)

--- Non-applicant

For applicant : Shri Jitendra Shrivastava, Advocate
For Respondent/State : Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

13/07/2015

Heard.

- 2) This is a second bail application for grant of bail. Earlier the first bail application was dismissed as withdrawn with liberty to revive the same in case eventuality so arises.
- 3) The applicant has filed this bail application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.134/2014 registered at Police Station Rajpur, District Balrampur-Ramanujganj (C.G.) for offence punishable under Sections 450 & 376 of the IPC. The applicant has been arrested on 11-07-2014.
- 4) Case of the prosecution in brief is that on 07-07-2014 in the night, the applicant entered into the house of the prosecutrix and committed rape on her and thereby committed the aforesaid offence.

5) Learned counsel appearing for the applicant argues that the circumstances of the case rendered the story of prosecution is highly doubtful. The prosecutrix was a major at the time of incident and the presence of applicant in her house in the night prima-facie makes out a case of consent. The other members of the family were also present and the statement of mother-in-law of the prosecutrix shows that nobody entered into the house nor came out. FIR was lodged at about 4.45 p.m. in the evening whereas the incident happened in the night. The applicant is in jail since last more than one year and till date the trial has not been concluded.

6) On the other hand, learned State Counsel opposed the prayer for grant of bail.

7) Taking into consideration the facts and circumstances of the case, particularly, considering the statement of the prosecutrix in the FIR which was lodged on the next day, I am not inclined to grant bail to the applicant.

8) Consequently, the present application for bail filed under Section 439 of the Cr.P.C. is liable to be and is hereby rejected.

9) However, taking into consideration that the applicant is in jail since last more than one year, the trial Court is directed to expedite the trial and dispose of the matter as early as possible.

Sd/-

(**Manindra Mohan Shrivastava**)
JUDGE