

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5184 of 2015**

Mahesh Kumar, aged about 27 years, S/o Shri Badrya Rao, R/o Purani Bhatti Para, Ward No.5, Kirandul, Police Station Kirandul, Civil and Revenue District Dantewada (C.G.)

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Kirandul, District Dantewada **---- Non-applicant**

For Applicant	:	Shri R.N. Jha, Advocate
For Non-applicant	:	Shri Arvind Dubey, Panel Lawyer for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29/09/2015**

- (1) Heard on admission.
- (2) 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.43/2014, registered at Police Station Kirandul, District Dantewada, for the offence punishable under Sections 323, 342, 376(g), 506 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.
- (3) The first bail application of the applicant was dismissed on merits by order of this Court dated 05.01.2015 passed in M.Cr.C. No.6905 of 2014. It is a case of gang rape.

(4) Learned counsel appearing for the applicant would submit that till then, only five witnesses have been examined before the trial Court and some prosecution witnesses are yet to be examined by the prosecution and the applicant is in jail since 20.09.2014 and, therefore, on the ground of delay in trial, the applicant may be released on bail and relied upon the decision in ***State of Kerala Vs. Raneef*** reported in ***AIR 2011 Supreme Court 340***, it has been held by the Supreme Court that delay in conclusion of trial is an important factor to be considered, while considering the application for bail.

(5) Taking into consideration the facts and circumstances of the case, looking to the nature and gravity of the offence and the manner in which, applicant and other co-accused persons are said to have been gang raped the prosecutrix, I do not consider it a fit case to entertain the second bail application merely on the ground of delay in trial. Accordingly, the second bail application is rejected as there is no change in the circumstances warranting entertain of second bail application. However, the trial Court is directed to expedite the trial and conclude the same as early as possible.

Sd/-
(Sanjay K. Agrawal)
Judge

L/-