

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5462 of 2017**

- Aswel Waltar S/o Late Ashok Walter Aged About 25 Years R/o Village- Balod Gahan, Police Station- Gurur, District Uttar Bastar Kanker, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through, Station House Officer, Police Station- Durgukondal, District Uttar Bastar Kanker, Chhattisgarh.

---- Respondent

 For Applicant : Shri Vivek Tripathi, Advocate
 For Respondent/State : Shri Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

07.9.2017

This is a repeat bail application. Earlier bail application of the applicant was dismissed by this Court vide order dated 01.5.2017 in MCRC No.2280/2017 after appreciating the facts.

2. The applicant has been arrested in connection with Crime No.31/2016 registered in Police Station Durgukondal, Distt. North Bastar Kanker (CG) for the offence punishable under Sections 363, 365, 366, 368, 376(2)(i)(n), 506, 120B of the Indian Penal Code and under Section 3(a), 4, 5 & 6 of the Protection of Children of from Sexual Offences Act, 2012 (for short 'the POCSO Act') and under Section 3(1w)(ii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

3. Learned counsel for the applicant submits that the applicant has been arrested on 20.11.2016, after investigation police has

filed charge sheet which is presently pending before Special Judge under the Atrocities Act, North Bastar, Kanker as Special Session Trial No.07/17. Learned counsel for the applicant would submit that during trial, the prosecutrix has been examined, she has not supported the case of the prosecution, hence, the applicant may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant.

5. Perused the entire material.

6. After perusal of the copy of the statement of prosecutrix recorded during trial, the prosecutrix was not declared hostile. Even otherwise, while hearing the petition under Section 439 of CrPC, this Court is not a forum where evidentiary value of the few witnesses examined during trial Court may be valued or appreciated whether on the basis of their statement the bail may be granted or not. This Court vide order dated 01.5.2017 in MCRC No.2280/2017 already dismissed the prayer of the applicant to release him on bail after consideration of the entire facts. As there is no change in the circumstances, I am not inclined to take a different view to enlarge the applicant on bail.

7. Consequently, the repeat bail application filed under Section 439 of the Cr.P.C. is also dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE