

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7554 of 2018**

Shubham Tiwari S/o Shri Ravi Tiwari Aged About 25 Years R/o Village-Sambalpur, Police Station- Bhanupratappur, District- North Bastar Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station- Bhanupratappur, District- Kanker, Chhattisgarh., District : Kanker, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Maneesh Sharma, Advocate
For the State	:	Shri A.K. Swarnkar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**01/11/2018**

1. This is the Second Bail application under Section 439 of the CrPC. First bail application was dismissed by this Court on 23/08/2018.
2. Perused the case diary provided by the counsel for the State in connection with the Crime No.38/2018 registered at Police Station Bhanupratappur, District Kanker (C.G.) for the offence punishable under Sections 376, 506 read with 120B of IPC and Under Section 4 & 17 of POCSO Act.
3. Counsel for the applicant submits that prosecutrix has already been examined in trial Court. He drew my attention on para 113 of the true copy of the statement of the prosecutrix. He also drew my attention order dated 29/08/2018 passed by this Court in MCRC No. 5647/2018 'Himanshu @ Golu Manikpuri vs. State of Chhattisgarh' and order dated 18/09/2018 passed by coordinate Bench of this Court in MCRC No. 5569/2018 'Shakir Khan vs. State of Chhattisgarh'.
4. In aforesaid orders no legal principle has been laid down which may binding upon this Court. As per the true copy of the statement of the

prosecutrix she had stated two types of version, one in examination-in-chief which is favourable to the prosecution and one against the prosecution in para 113, in cross examination.

5. Learned counsel for the applicant submits that applicant is innocent and falsely implicated in the present case, therefore, he shall be released on bail.
 6. On the other hand, learned counsel for the State opposes the bail application.
 7. What would be the effect of the statement of the prosecutrix, it would be considered by the trial Court at the time of appreciation of the evidence, while disposing the case.
 8. There is no change of circumstance which may entitled the applicant to get the benefit of Section 439 of CrPC in this second bail application.
- Thus this second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge