

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8156 of 2018**

Bhesan @ Santosh Vishwakaram, S/o Mr. Hemlal Vishwakarma, R/o Village Mura, P.S. Kurud, District Dhamtari (wrongly mentioned as Mahasamund in order and charge sheet). **---- Applicant**

Versus

State of Chhattisgarh, through Police Station Rakhi, District Raipur (CG).

---- Non-applicant

For Applicant : Mr. Raza Ali, Advocate
For Non-applicant : Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

04.12.2018

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other Court.
2. The applicant has been arrested in connection with Crime No.67/2018 registered in Police Station Rakhi, Raipur for the offence punishable under Sections 376, 506-B, 323 of Indian Penal Code.
3. Prosecution story in brief is that on 21.04.2018 the prosecutrix was aged about 30 years old. She is a resident of village Shergaon. On 21.04.2018 at about 8:00 pm when she was returning back from barn, at that time, the applicant caught hold her hand and pressed her mouth and, thereafter he committed sexual intercourse with her. Due to fear, she does not narrate the incident immediately.
4. Counsel for the applicant would submit that the applicant has not committed any offence and has been falsely implicated in the case. He would further submit that the case in hand, there is a delay of three days in lodging the FIR; and earlier the applicant has already lodged a report before the police station against the family members of prosecutrix and this case is a outcome of that report.
5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicant. However, he would further submit that no criminal antecedent reported against the applicant in police case diary.
6. What would be effect of delay in lodging the FIR may be considered by the trial Court at the time of final disposal of the case. At this stage, the applicant does not get any help regarding for grant of bail.
7. Looking to the facts and circumstances of the case, looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of

the Cr.P.C. to the applicant. Consequently, the bail application is rejected.

8. At this stage, counsel for the applicant submitted that the applicant may be granted liberty to file subsequent bail application after examination of witnesses.

9. There is no need to get liberty to file subsequent bail application based on new grounds.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-