

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9063 of 2018**

Awadhesh Kaiwartya S/o Firuram Kaiwarty Aged About 24 Years
(Wrongly Mentioned As Awadesh Kaiwartya In Order Sheet)r/o
Village- Khorsi, Police Station- Shivrinarayan, Civil And Revenue
District- Janjgir- Champa, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station-
Kasdol, District- Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri B.L. Sahu, Advocate
For the State : Shri Satish Gupta, G.A.

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**06/12/2018**

1. This is the **Second Bail** application under Section 439 of the CrPC.
2. First bail application was dismissed on merits on 23/08/2018.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.127/2018 registered at Police Station Kasdo, District Balodabazar-Bhatapara (C.G.) for the offence punishable under Section 376, 506 of IPC and Section 4 of POCSO Act.
4. Case of the prosecution, in brief is that at the time of alleged incident i.e. on 03/03/2018 the prosecutrix was below 16 years of age, she is resident of village Madwa. On 03/03/2018 near about 4 p.m. when prosecutrix was returning back after replying the nature's call, applicant caught hold her pressed her mouth and forcibly committed sexual intercourse with her.
5. Learned counsel for the applicant submitted that prosecutrix was more than 16 years old and she was consenting party. He drew my attention in different paras of the certified copies of the witnesses. PW-1 Jagarbai and PW-2 prosecutrix.
6. State counsel opposes the bail application. He further submits that no criminal antecedents against the applicant.
7. What would be the effect of the statements of witnesses it would be considered by the trial Court at the time of disposal of this case.
8. There is no change of circumstances which may entitled the appellant to be released on bail in second round.
9. Accordingly, second bail is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge