

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 63 of 2019**

Roushan Khan, S/o Shri Wahid Khan, aged about 26 years, R/o village Chandranagar, P.S. And Tahsil Balrampur, District Balrampur Ramanujganj (CG).

---- **Applicant**

Versus

State of Chhattisgarh, through S.H.O. Chalgali, P.S. Ramanujganj, District Balrampur, Ramanujganj (CG).

---- **Non-applicant**

For Applicant : Mr. B.P. Soni, Advocate

For Non-applicant : Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board**

24.01.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other Court.
2. The applicant has been arrested in connection with Crime No.55/2018 registered in Police Station Ramanujganj, District Balrampur Ramanujganj for the offence punishable under Section 376 of IPC and Sections 3(2)(v) of Prevention of Atrocities Act.
3. Prosecution story in brief is that on 06.05.2018 the prosecutrix was aged about 27 years old. She is a resident of village Barkimehri. She is a member of Scheduled Caste. The applicant is neither a member of Scheduled Caste nor Scheduled Tribe. On 06.05.2018 at about 7:00 p.m. the prosecutrix was going from in-laws house to her parental house on the way at near jungle the applicant caught hold her and committed sexual intercourse with her.
4. Counsel for the applicant submitted that the applicant has not committed any offence and has been falsely implicated in the case. He further submitted that there is a delay in lodging the FIR. The applicant and prosecutrix were a consenting party and as such the applicant may be released on bail.
5. On the other hand, counsel for the State opposed the prayer for grant of bail to the applicant however he submitted that no criminal antecedent is reported against the applicant in police case diary.
6. What would be effect of delay in lodging the FIR is the subject matter of scrutiny of the evidence may be considered by the trial Court at the time of final disposal of the case.
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. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)
JUDGE