

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 325 of 2019

- Ravindra @ Ravendra Kumar S/o Sarman Lal Namdeo Aged About 46 Years R/o Atal Awas Manki, Police Station Tahsil Civil And Revenue District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Somni, Tahsil Civil And Revenue District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Non-applicant

For Applicant	: Shri Ratnesh Kumar Agrawal, Advocate.
For Non-applicant	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar GuptaOrder On Board04.02.2019

1. This is Fourth bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first, second and third bail applications of the applicant has been rejected by this Court on 17.04.2017 in MCRC No. 899 of 2017, 24.08.2018 in MCRC No. 5410 of 2018 and 26.10.2018 in MCRC 6888 of 2018 respectively considering the merits of the case.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 08/2017 registered at Police Station – Somni, Tahsil Civil And Revenue District Rajnandgaon (C.G.) for the offence punishable under Section 365, 366, 376, 506, 34 of the Indian Penal Code.
4. Case of the prosecution, in brief is that the applicant is a Veterinary Doctor. He abducted the prosecutrix and gave threatening to kill her and committed forcible sexual intercourse with her and made a video clip.
5. Counsel for the applicant further submitted that the applicant is in custody since 14.01.2017, number of the prosecution witnesses have been examined and from the statements of the prosecution witnesses it reveals that prosecutrix was allegedly a consenting party. Thus, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. Counsel for the applicant placed reliance on a decision of Hon'ble Supreme Court in the matter of **Hussain and another -v- Union of India** [(2017) 5 SCC 702] wherein Hon'ble Supreme Court observed that magisterial trials,

where the accused are in custody, be normally concluded within 6 months and sessions trials where accused are in custody be normally concluded within two years. As a supplement to Section 436-A, but consistent with the spirit thereof, if an undertrial has completed period of custody in excess of the sentence likely to be awarded if conviction is recorded such undertrial must be released on personal bond. Such an assessment must be made by the trial Courts concerned from time to time.

8. In the case in hand the matter before this Court is for bail. This Court cannot say that what sentence is likely to be awarded if conviction is recorded by the trial Court. In other words it is the trial Court who can assess that what sentence may be awarded to the applicant if conviction is recorded. Thus, applicant does not get any help from the observation made by Hon'ble Supreme Court in the matter of **Hussain** (supra). This Court cannot appreciate evidence of the prosecution witness.
9. There is no change in circumstance.
10. Accordingly, the present bail application is rejected.
11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE