

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 340 of 2019

- Sanjay Bhatt Bangali S/o Subhash Bhatt Aged About 30 Years R/o Village Ajirma, P.S. Jainagar, District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Ajak, District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---- Non-applicant

For Applicant	: Shri Ashok K. Shukla, Advocate.
For Non-applicant	: Shri SRJ Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

28.03.2019

1. The prosecutrix informant is present in person.
2. After putting some questions, I am satisfied that the girl who is present before this Court is prosecutrix.
3. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
4. Perused the case diary provided by the learned counsel for the State in connection with crime No. 57/2017 registered at Police Station – Ajak, District- Surajpur, (C.G.) for the offence punishable under Sections 450, 342, 506, 376(2)(g), 34 of the Indian Penal Code and Section 3(2)(5) Section 3(1-12) of SC/ST Prevention of Atrocities Act and Section 4 of POCSO Act.
5. Case of the prosecution, in brief is that on 09.08.2016 prosecutrix was below 16 years of age. She is resident of village Karamdiha. She is member of scheduled tribe. On 09.08.2016 and onwards coaccused Mira Bai and Rajesh Bhumiya getting entered in her house the applicant and coaccused Yog Bangali and Vivek, they were committing forcible sexual intercourse one by one with her.
6. Learned counsel for the applicant argued that the applicant has no criminal background, he is innocent, therefore, he shall be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
8. The informant - prosecutrix submitted that she has no objection on release of applicant on bail.
9. Counsel for the applicant further drew my attention on para 26 and 29 of the true copy of the statement of prosecutrix which is part of the bail petition.
10. PW8 Prosecutrix had stated against the applicant in para 3 and 14, though she had given statement in para 26 and 29 in favour of the applicant. Thus there are two types of statements of prosecutrix.
11. This is well settled legal principle that while dealing with the bail application Court cannot consider merits and demerits of the case. It cannot scrutinize evidence. Hence what would be the effect of two types of statements would be considered at the time of appreciation of the evidence by the trial court.
12. Considering the total material available on record, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected. However, since number of prosecution witnesses have been examined thus trial court is directed to expedite the trial and dispose of case as soon as possible preferably within 3 months from the date of receipt of certified copy of this order.
13. Certified copy as per rules.

Sd/-
 (Sharad Kumar Gupta)
JUDGE