

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 737 of 2019**

Omprakash Soni, S/o Shri Sheshmani Soni, aged about 28 years, R/o Jagarha,
Police Station Churhat, District Sidhi (M.P.). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Adim Jati Kalyan
Thana Raigarh, District Raigarh. **---- Non-applicant**

For Applicant	: Mr. Awadh Tripathi, Advocate
For Non-applicant	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

15.02.2019

1. This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.04/2018 registered at Police Station Adim Jati Kalyan Thana, Raigarh, District Raigarh for the offence punishable under Sections 376 of IPC, Sections 4 & 6 of Protection of Children from Sexual Offences Act and Section 3(1)(w)(1), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.
2. The first bail application of the applicant was rejected on merits by the order of this Court dated 27.11.2018 passed in M.Cr.C. No.8166/2018 considering the prima facie material available on record.
3. Case of the prosecution in brief is that on 14.02.2017 the prosecutrix was aged about 16 years old. She is a resident of village Panchdhar. She and applicant were liking to each other. Since 14.02.2017 onwards he committed sexual intercourse with her on the pretext of marriage as a result of which she became pregnant and, thereafter, he refused to marry with her and told that he has already married man.
4. Counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the present case. He further submitted that the matter was compromised and prosecutrix was a consenting party. She had made physical relationship with the applicant knowing that he has already married man. In support of his case, he drew my attention on different paragraphs of statement of the prosecutrix recorded by the trial Court.
5. On the other hand, counsel for the State opposed the bail application.
6. It is well settled legal principle of law that while deciding the bail application cannot consider the merits and demerits of the case.
7. Earlier, the applicant's first bail application was rejected by this Court vide order dated 27.11.2018 looking to the fact that the applicant has already man even though he committed sexual intercourse with her
8. Looking to the above mentioned facts and circumstances of the case, there is no such change in the circumstances of the case on the strength of which the applicant be released on bail. Consequently, the second bail application of the applicant is rejected.
9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE