

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1008 of 2019**

Rajendra Prasad Gupta S/o Late H. S. Shah Aged About 70 Years R/o
Bajrang Nagar, Kunkuri, District Jashpur Chhattisgarh.

---- **Applicant**

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Kunkuri, District Jashpur Chhattisgarh, District : Jashpur,
Chhattisgarh.

---- **Respondent**

For the Applicant	:	Shri Amit Sharma, Advocate
For the State	:	Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**25/02/2019**

1. This is the second bail application under Section 439 of the CrPC.
2. Earlier first bail application of the applicant was rejected by this Court on 17/01/2019 in MCRC No. 9869 of 2018 considering the *prima facie* case. The case diary provided by the learned counsel for the State in connection with the Crime No. 218/2018 registered at Police Station Kunkuri, District Jashpur (C.G.) for the offence punishable under Section 354 & 354 (a) of IPC and under Section 3(1)(ब)(ii) & 3(2)(v)(क) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. Case of the prosecution, in brief is that prosecutrix is about 28 years old. She is resident of Bemtatoli Kunkuri. A knot was developed in breast of the prosecutrix. She was getting treatment from applicant. On 22/11/2018 about 6.30 p.m. during the massage of the breast he touched her private parts, kissed her and impliedly told that if she will permit to do the sex then he will cured her knot problem.
4. Counsel for the applicant further submitted that applicant has lodged report against the prosecutrix earlier than the report lodged by the prosecutrix. He drew my attention on photocopy of the document Annexure A/4 which is part of the bail application. Applicant is 70 years old. He is in custody since 17/11/2018 in the case in hand there was no public place, thus Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, does not attract.

5. State counsel has opposes the bail application. He further submits that no criminal antecedents against the applicant.
6. In earlier order this Court had observed that *prima facie* at this stage it cannot be said that prosecutrix had falsely implicated the applicant on alleged money dispute.
7. What would be effect of Annexure-A/4, is the subject matter of the scrutiny of evidence which would be done by the trial Court.
8. There is no change of circumstances of the case on the strength of which the applicant is entitled to get benefit of Section 439 CrPC, consequently, second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde