

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 912 of 2019**

Shiv Kumar Yadav, S/o Dhaneshwar Yadav, aged about 25 years, Caste Raout, R/o Ghumra, Police Station Tapkara, District Jashpur (CG).

---- Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station Tapkara, District Jashpur (CG).

---- Non-applicant

For Applicant	: Mr. Sanjeev Kumar Sahu, Advocate
For Non-applicant	: Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

20.02.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.41/2018 registered in Police Station Tapkara, District Jashpur for the offence punishable under Sections 450 & 376 of IPC and Section 3(2-5) of SC/ST Act.
3. Case of the prosecution, in brief, is that on 08.07.2018 the prosecutrix was aged about 28 years old. She is a resident of village Bhumara. She is a member of Scheduled Tribe. On 08.07.2018 at about 9:00 a.m., the prosecutrix was alone in her house at that time the applicant entered in her house and closed the door and pressed her mouth and committed forcibly sexual intercourse with her. When her husband returned back in the house, he heard the voice of his wife leave her, he knocked the door then the applicant hidden himself under the bed. She opened the door and narrated the incident to her husband then her husband became anger and went near to bed along with burned wood and caused blow by that wood to the applicant. The applicant fled away from the spot.
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 delay of three days in lodging the FIR and statement of prosecutrix has been recorded after three months from the alleged incident and medical evidence is nil hence he may be released on bail.
5. On the other hand, counsel for the State opposed the bail application, however, he submitted that no criminal antecedent is reported against the applicant in police case diary.
6. The aforesaid facts raised by the counsel for the applicant are subject matter of scrutiny of evidence which may be done 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