

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1079 of 2019**

Motilal @ Bocha @ Boya Sonwani, S/o Shri Bandu Ram Sonwani, aged about 30 years, Occupation Labour, R/o Village Ghugharikala, Police Station Kusmi, District Balrampur Ramanujganj (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Officer in charge of Police Station Kusmi, District Balrampur Ramanujganj (CG). **---- Non-applicant**

For Applicant	: Mr. Roop Naik, Advocate
For Non-applicant	: Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

26.02.2019

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.107/2018 registered in Police Station Kusmi, District Balrampur Ramanujganj for the offence punishable under Sections 376, 506 of Indian Penal Code.
3. Case of the prosecution, in brief, is that on 29.08.2018 the prosecutrix was aged about 32 years. She is a resident of village Ghugharikala. On 29.08.2018 at about 10:11 a.m. in the forest, the applicant committed forcibly sexual intercourse with her and gave threat to kill her. She has not stated anyone about the incident due to blush. On 02.10.2018 he again followed her then she lodged a report in the police station Kusmi on 06.10.2018.
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 in lodging the FIR and medical evidence does not support the prosecution case and matter was compromised and as such the applicant may be released on bail.
5. On the other hand, counsel for the State opposed the bail application, however, he submits that no criminal antecedent is reported against the applicant in police case diary.
6. What would be effect of delay in lodging the FIR and the medical evidence is a subject matter of scrutiny of evidence may be considered 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