

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 1523 of 2019

- Shashi Kumar Verma S/o Shri Ramnath Verma @ Ramnath Prasad Koiri Aged About 18 Years R/o Village Badki Mahri, Police Station - Balrampur, District - Balrampur - Ramanujanj Chhattisgarh., Present Address Ward No. 37, Chief House Domanhil, Police Station - Chirmiri, Tahsil Khadgawa, District - Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Outpost - Koriya, Police Station - Chirmiri, District - Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant	: Shri Rishi Rahul Soni, Advocate.
For Non-applicant	: Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

14.03.2019

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant has been rejected by this Court on 09.10.2018 in MCRC No. 4868 of 2018 considering the prima facie case against the applicant.
3. Perused the case diary provided by the learned counsel for the State in connection with crime No. 128/2018 registered at Police Station – Chirmiri, District – Korea (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.
4. Case of the prosecution, in brief is that on 03.06.2018 prosecutrix was more than 16 years old. She is resident of village Domanhil. On 03.06.2018 prosecutrix had gone to the house of Rahul to meet with the applicant. Thereafter, applicant confined her inside a room, beaten her and committed sexual intercourse with her.
5. Learned counsel for the applicant argued that looking the para 5 and 9 of the statement of the prosecutrix and statement of PW2 Ku. Varsha prima facie it appears that the prosecutrix was a consenting party, thus, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
7. PW1 prosecutrix is not the hostile witness. She had stated against the applicant in para 2 during examination in chief. It is well settled legal position that at the time of considering bail petition the merits and demerits of the case would not be considered. At this stage the Court cannot scrutinize evidence.
8. There is no change in the circumstance.
9. Accordingly, looking to the entire materials available on record, the present bail application is rejected.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE