

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1711 of 2019**

Munshi Yadav S/o Shri Putu Yadav Aged About 50 Years R/o Village
Pipraul O.P. Vijaynagar P.S.- Ramanujganj, District- Balrampur,
Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through P.S.- A.J.A.K, Balrampur, District-
Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur,
Chhattisgarh .

---- Respondent

For the Applicant	:	Ms. Soniya Kuldeep, Advocate
For the State	:	Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**18/04/2019**

1. Allegedly informant-Smt. Sangeeta present. After putting some questions this Court satisfied that the person who is present in the Court is Smt. Sangeeta-informant mother of the prosecutrix.
2. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.02/2018 registered at Police Station AJAK Balrampur, District Balrampur (C.G.) for the offence punishable under Section 376 of IPC, Section 4, 5 of POCSO Act and 3(2)(5) of SC/ST (Atrocities) Act.
4. Case of the prosecution, in brief is that prosecutrix is below 7 years of age. She is resident of village Bhityahi. She is member of Scheduled Tribe. On 09/11/2018 at about 3.00 p.m. applicant had took prosecutrix in the toilet, removed her underwear and committed sexual intercourse with her.
5. Learned counsel for the applicant submits that he is innocent and falsely implicated in the present case, therefore, he shall be released on bail.
6. On the other hand, counsel for the State opposes the bail application. He

further submits that no criminal antecedents against the applicant.

7. Counsel for the applicant further submitted that prosecutrix, her mother-informant, her father have turned hostile in the trial Court. He drew my attention on the photocopy of the statements of said persons which are the part of the bail application.
8. Informant-mother of the prosecutrix submitted that applicant may be released on bail.
9. While recording the statement of the prosecutrix Court has not given the clear cut finding that as to whether she is competent witness or not. As per the RFSL report on Article 'A' vaginal slide and Article 'B' underwear of the applicant sperm and semen stain were found.
10. Looking to the above mentioned facts and circumstances of the case, looking to the totality of the fact that prosecutrix is below seven years, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde