

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2049 of 2019

- Ramawatar Shriwas S/o Judawan Shriwas Aged About 35 Years R/o Jiratola, P. S. Gandai, Tahsil Chhuikhadan, Civil And Revenue District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Gandai, Civil And Revenue District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Non-applicant

For Applicant	: Shri B.D. Guru, Advocate.
For Non-applicant	: Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta **Order On Board**

09.04.2019

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 06.02.2019 in MCRC No. 323 of 2019 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. 248/2018 registered at Police Station – Gandai, Civil And Revenue District Rajnandgaon (C.G.) for the offence punishable under Section 506, 376, 509, 354(A)(B) of the Indian Penal Code.
4. Case of the prosecution, in brief is that on 27.09.2018 the prosecutrix was aged about 31 years old. She is a resident of village Jiratola. On 27.09.2018 at about 5:00 a.m. at village Jiratola in front of her house, the applicant pressed her mouth and gave threats to kill her and committed forcible sexual intercourse with her. When she removed his hand from her mouth and shouted, at that time her husband came there then the applicant fled away from the spot.
5. Learned counsel for the applicant argued that now the charge sheet has been filed, there are some contradictions in the statements of the prosecutrix and her husband which indicate that 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 no criminal antecedent is reported against the applicant in the police case diary.
7. Mere filing of the charge-sheet does not change the circumstance which may entitle the applicant to be released on bail in the second round of litigation.
8. What would be the effect of alleged contradictions in the statements of the prosecutrix and her husband would be considered by the trial Court at the time of the appreciation of the evidence. At this stage this Court cannot scrutinize the evidence.
9. There is no change in circumstance.
10. Accordingly, looking to the entire materials available on record, the present bail application is rejected.
11. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE