

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2050 of 2019

- Piyush Rao S/o Shri Narendra Rao Aged About 30 Years R/o J.K. Township Colony Siltara, Police Station- Dharsiva, District- Raipur, Civil And Revenue District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Moudhapara, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Shri Ajay Mishra, Advocate
For Respondent/State : Shri VK Agrawal, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

03/05/2019

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 12/2019, registered at Police Station – Moudhapara, District- Raipur (C.G.) for the offence punishable under Section 376 of the IPC.
2. First bail was dismissed as withdrawn with liberty to file a fresh after filing of charge-sheet vide order dated 12.03.2019 passed in MCRC No. 1444/2019
3. As per prosecution story, prosecutrix is a lady aged about 30 years, she made a report in police station alleging that on 16.01.2019, at about 10 PM when she was returning from the house of her friend, allegedly co-accused Vicky abducted her and

taken her into an ambulance and then he called his friend, thereafter, he and his friend committed forcefully sexual intercourse with her in a room and also threatened her for life. On the basis of said report, offence has been registered against the co-accused Vicky and his friend. Allegedly, the applicant is the person who committed rape with the prosecutrix along with co-accused Vicky. The applicant is in custody since 17.01.2019.

4. Learned Counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the case. There is nothing on record prima facie on the basis of which it is established that the applicant is involved in the crime in question. He further submits that in the FIR, the prosecutrix does not disclose the name of the present applicant, in her statement also recorded under Section 164 of Cr.P.C. she does not name the applicant, no test identification parade has been conducted by the prosecution with regard to the applicant, only on the basis of statement of co-accused, the applicant has been falsely implicated in the crime in question. The Applicant is in custody since 17.01.2019, charge-sheet has been filed and trial is likely to take some time. Therefore, he may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that in the FIR, the prosecutrix does not disclose the name of the present applicant, in her statement also recorded under Section 164 of Cr.P.C. she does not name the applicant, no test

identification parade has been conducted by the prosecution with regard to the applicant. The applicant is in custody since 17.01.2019, charge-sheet has already been filed and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release him on bail.

8. Accordingly, the bail application is allowed.
9. It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge