

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2698 of 2019**

Mukesh Hathile @ Mukku Hathile, S/o Shri Ram Awtar Hathile, aged about 20 years (correct age of applicant is mentioned here), R/o Shanti Nagar Indrapuri, Ward No.12, Tifra, Police Station Civil Line, Bilaspur, District Bilaspur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, P.S. Mahila, Police Station, Bilaspur, District Bilaspur (CG).

---- Non-applicant

For Applicant : Mr. Amit Singh, Advocate

For Non-applicant : Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****07.05.2019**

1. This is second 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.51/2018 registered at Police Station Mahila Police Station Bilaspur, District Bilaspur for the offence punishable under Sections 376, 323/34 of IPC and Sections 4 & 6 of POCSO Act.
3. The first bail application of the applicant was rejected on merits by this Court vide order dated 14.02.2019 passed in M.Cr.C. No.673/2019 considering *prima facie* case against the applicant.
4. Case of the prosecution, in brief, is that on 14.10.2018 in the night, the prosecutrix had gone to see Dandiya Dance towards Maharana Pratap Chowk, when she was returning back to her house at about 2:00 am, the applicant and co-accused Komal Tonde reached near to her and the applicant committed sexual intercourse with her.
5. Counsel for the applicant submitted that as per paras 7 & 8 of photocopy of statement of prosecutrix, the applicant is entitled for bail.
6. On the other hand, counsel for the State opposed the bail application. However, he submitted that previously no criminal antecedent is reported against the applicant in police case diary.
7. As per photocopy of statement of prosecutrix, which is a part of bail application she had stated against the applicant in examination-in-chief.
8. This is well settled legal position that while dealing with the bail application, this Court neither scrutinize nor appreciate the evidence. At this stage, this Court also cannot touch the merit and demerit of the case.
9. Looking to above mentioned facts and circumstances of the case and looking to this fact that there is no change in the circumstances of the case on the strength of which the applicant be released on bail in the second round of litigation. Consequently, the second bail application is rejected.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE