

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2577 of 2019

- Santosh Singh Thakur S/o Patangu Ram Aged About 42 Years R/o Bandhwapara, Police Station Sarkanda, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Bilha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant : Shri Arvind Shrivastava, Advocate.

For Non-applicant : Shri Washim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

30.04.2019

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 08.02.2019 in MCRC No. 555 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. 270/2018 registered at Police Station – Bilha, District – Bilaspur (C.G.) for the offence punishable under Sections 376, 323, 354, 379, 506, 34 of the Indian Penal Code.
4. Case of the prosecution, in brief is that prosecutrix is 21 years old. She is resident of Bandhwapara, Sarkanda. In the year 2013 applicant had made the obscene video of prosecutrix when she was bathing. Thereafter applicant committed repeatedly sexual intercourse with her after giving threatening that he will kill her and viral said video. On 06.09.2018 applicant and her wife came in her house and took the gold ornaments from the almirah.
5. Learned counsel for the applicant argued that prosecutrix, her father, her mother and some other witnesses have been examined. In requisition letter for medical examination dated 07.09.2018 it has not been mentioned that alleged rape was committed with prosecutrix, in the true copy of the statement of the prosecutrix recorded by the trial Court it has not been mentioned that he had made obscene video of her when she was bathing thereafter he committed repeatedly sexual intercourse with her after giving threatening that he will viral the said video. Counsel for the applicant further drew my attention on para 4 and 9 of the said statement of the prosecutrix. He further submits that PW2 Saheb Singh Bargah who is the father of the prosecutrix, PW3 Bhuneshwari Bai who is the mother of the prosecutrix do not say that allegedly prosecutrix had told them that applicant had made her obscene video and committed repeatedly sexual intercourse with her. He drew my attention on para 1 of true copy of statement of PW2 Saheb Singh, para 2 of true copy of PW3 Bhuneshwari Bai, the true copy of the statements are part of the bail application. Thus, the applicant may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. PW prosecutrix had stated against the applicant regarding rape in para 1 during her examination in chief.
8. This is well settled legal position that while dealing with the bail application, this Court neither scrutinise evidence nor appreciate evidence. At this stage this Court also cannot touch the merits and demerits of the case.
9. Looking to the totality of the facts of the case, this Court finds that there is no change in circumstance which may entitle the applicant to be released on bail in second round of litigation.
10. 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