

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2737 of 2019**

Prem Soni, S/o late Kanhai Soni, aged about 29 years, R/o Village Jiganiya,
P.S. Kusmi, District Balrampur Ramanujganj (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Kusmi,
District Balrampur Ramanujganj (CG). **---- Non-applicant**

For Applicant	: Mr. Nishikant Sinha, Advocate
For Non-applicant	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****08.05.2019**

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.106/2018 registered at Police Station Kusmi, District Balrampur Ramanujganj for the offence punishable under Sections 376 of IPC, Section 3(2)(v) of STSC (Prevention of Atrocities Act) and Section 4 of POCSO Act.
3. The first bail application of the applicant was rejected on merits by this Court vide order dated 25.03.2019 passed in M.Cr.C. No.1287/2019.
4. Case of the prosecution, in brief, is that on 02.10.2018 prosecutrix was more than 16 years of age. She is resident of village Harri. On 02.10.2018 she was returning back from the market to her house in the auto of applicant. Applicant took her to Larangi Forest behind the Mission School and committed forcible sexual intercourse with her.
5. Counsel for the applicant submitted that the prosecutrix has been examined by the trial Court and from the evidence, it establishes that prosecutrix was a consenting party hence the applicant may be released on 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 enclosed certified copy of statement of prosecutrix, which is a part of bail application she had not hostile witness. 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. However, the trial Court is directed to expedite the trial and conclude the case as early as possible from the date of receipt of certified copy of this order.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE