

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2871 of 2019**

Mahesh Sahu @ Chhappan Sahu S/o Rajendra Sahu Aged About 20 Years R/o Infrong Of Apollo Hospital, Lingiadih, P.S. Sarkanda, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- The Station House Officer, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Rajeev Kumar Dubey, Advocate
For the State	:	Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**26/06/2019**

1. Informant/father of the prosecutrix Bhanu Manikpuri was absent on 16/05/2019 though notice was served upon him. Today also he is absent.
2. A report from the Superintendent of Police, Bilaspur received wherein it has been mentioned that notice was not sent unserved because Reader of SHO Sarkanda was ill. The reason is not satisfactory. Superintendent of Police, Bilaspur may proceed against the erring officer in accordance with Police Regulation.
3. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was dismissed for want of prosecution on 09/04/2019 in MCRC No. 1031/2019.
4. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.1033/2018 registered at Police Station Sarkanda, District Bilaspur (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 6 of POCSO Act.
5. Case of the prosecution, in brief is that on 30/11/2018 prosecutrix was

below 14 years of age. She is resident of Bilaspur. She and applicant had liking for each other. On 30/11/2018 applicant took her in the house of his friend Ballu. He committed sexual intercourse with her.

6. Learned counsel for the applicant submits that he is innocent and falsely implicated in the present case, therefore, he may be released on bail.
7. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
8. In the photocopy of the statement of the prosecutrix recorded under Section 164 of CrPC she had stated that applicant had not committed sexual intercourse with her.
9. As per certified copy of the statement of the prosecutrix recorded by trial Court she had stated in examination-in-chief that applicant had committed sexual intercourse with her saying that he will marry her. Sexual intercourse was committed on her wish and will.
10. Looking to the above mentioned facts and circumstances of the case, looking to this fact that on 30/11/2018 prosecutrix was below 14 years of age, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge