

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3036 of 2019**

Loknath Meher S/o Nimaicharan Mehar Aged About 26 Years Caste
Bhulia, R/o Village Rasoda, Police Station Basna, District
Mahasamund Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, police Station
Basna District Mahasamund Chhattisgarh

---- Respondent

For applicant	Mr. Gurudev Saran, Adv.
For non-applicant/State	Mr. Vikram Dixit, GA.
For informant	Mr. Raghvendra Pradhan, Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****18-6-2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His first application was rejected by this Court vide order dated 10-12-2018 passed in MCRC no. 7668/2018.
2. The applicant has been arrested in connection with Crime No. 381/2018 registered in police station Basna, Distt. Mahasamund (CG) for offence punishable under Sections 363, 366, 376 of the IPC and Section 4 of POCSO.
3. Case of the prosecution, in brief is that on 10-9-2018 prosecutrix was below 16 years of age. She is R/o. Village Sitapur. On 10-9-2018 applicant took her at village Kiroli by enticing on pretext of marriage, committed sexual intercourse with her. Thereafter he took her in village Kiroli, Rasoda. In village Kiroli he again committed sexual intercourse with her.
4. Counsel for the applicant submitted that conduct of the prosecutrix shows that she was consenting party. He drew my attention on different paragraphs of certified copy of statement of P.W. 1 Prosecutrix and P.W. 2 Dr. Chandrakiran. He further

submits that FIR is delayed by 9 days and the applicant is in jail since 21-9-2018. Thus the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application.
6. It is well settled legal position that while deciding the bail application court cannot consider the merits and demerits of the case. At this stage, this Court neither scrutinize nor appreciate the evidence. The conduct and factum of delayed FIR are subject matter of scrutiny of evidence which this Court cannot do at this stage.
7. There is no change of circumstances since rejection of first bail application which may entitle the applicant for release on bail.
8. The application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge