

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2961 of 2019**

- Prakash Yadav S/o Let Kartik Yadav Aged About 19 Years R/o Kasaridih, Fokatpara Near House Of Ex Councillor, Durg, Police Station Kotwali, Durg, District- Durg, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Of Police Station- Durg, Kotwali, District- Durg, Chhattisgarh

---- Non Applicant

For the Applicant : Mr. Tarun Dansena, Advocate

For Non Applicant : Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**04.07.2019**

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 was rejected by this Court on 12.03.2019 in MCRC No.1364 of 2019.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.795/2018 registered at Police Station- Durg Kotwali, District- Durg (C.G.) for the offence punishable under Sections 376, 294, 506 of the Indian Penal Code.
4. Prosecution story in brief is that prosecutrix is about 23 years old. She is resident of village Kasaridih, Durg. On 28.09.2018 between 10:00 to 10:30 pm she was returning back to her house from the house of her Badi Maa.

From the back applicant reached, pressed her mouth, took her in open place by pulling, abused her and gave threats to kill her, pressed her throat and committed sexual intercourse.

5. Counsel for the applicant submitted that prosecutrix has been examined in trial Court and she does not support the prosecution case, thus, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, there is no antecedent against the applicant.
7. As per the certified copy of the statement of the prosecutrix recorded by trial Court which is the part of the bail application she had stated in examination in chief that there was quarrel between her and applicant, thus she went to police station to lodge the report. Applicant neither committed forcible intercourse with her nor abused, gave threats to kill her. She turned hostile. These circumstances are change of circumstances and sufficient to enlarge the applicant on bail in second round of litigation.
8. Looking to the above mentioned facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, it is directed that if applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond of Rs.25,000/- to the satisfaction of the concerned trial Court with the condition that he will appear before the trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he be released on bail.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul