

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3137 of 2019**

David @ Pintu Sahu, aged about 20 years, S/o Ganpata Ram Sahu, R/o Village Banarsi, Police Station Arang, Civil and Revenue District Raipur (CG).

---- **Applicant**

Versus

State of Chhattisgarh, through Officer in charge, Police Station Arang, Civil and Revenue District Raipur (CG).

---- **Non-applicant**

AND**MCRC No. 3679 of 2019**

Yadram Sahu, aged about 25 years, S/o Rajau Sahu, R/o Banarsi, Police Station Arang, Raipur, Civil & Revenue District Raipur (CG).

---- **Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Arang, Raipur, Civil & Revenue District Raipur (CG).

---- **Non-applicant**

For Applicants	: Mr. Kripesh G. Kela, Advocate
For Non-applicant	: Ms. Sangeeta Mishra, Govt. Advocate
For Complainant	: Mr. Pragalbha Sharma, Advocate appearing on behalf of Mr. Rahul Tamaskar, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

18.07.2019

1. Above mentioned two bail applications arise out of a common Crime No.357/2018 registered at Police Station Arang, Civil and Revenue District Raipur for the offence punishable under Sections 376, 450, 34 of IPC, Section 3(2)(V) of SCST Act and Section 4 of POCSO Act, therefore, they are being heard analogously and decided by this common order.
2. This is second bail application of the applicant-David @ Pintu Sahu. His first bail application was rejected on merits by this Court vide order dated 18.01.2019 passed in M.Cr.C. No.9814 of 2018.
3. This is first bail application of the applicant-Yadram Sahu.
4. Case of the prosecution, in brief, is that on 10.08.2018, the prosecutrix was aged about 13 years old, is a resident of village Banarsi. On 10.08.2018 at about 6.00 pm, she was alone in her house. The applicants entered into her house. The applicant-Yadram Sahu committed forcibly sexual intercourse with her. At that time, the applicant David @ Pintu Sahu had caught hold her hand and pressed her mouth.

5. Counsel for the applicants submitted that the applicants have not committed any offence and have been falsely implicated in the case. He further submitted that prosecutrix was examined in the trial Court. He drew my attention on paragraphs No.1, 10, 11, 12 & 13 of photocopy of statement of prosecutrix, which are the part of bail application.
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 applicants in police case diary.
7. The prosecutrix had stated against both the applicants in paragraphs No.3 & 4 of her statement.
8. What would be effect of statement of the prosecutrix in paragraphs No.1, 10, 11, 12 & 13 is the subject matter of scrutiny. This is well settled legal principle that while dealing with the bail application, this Court is neither scrutinize nor appreciate the evidence. At this stage, this Court also cannot touch the merit and demerit of the case.
9. Looking to the above mentioned facts and circumstances of the case, looking to this fact that there is no change in the circumstances of the case on the strength of which **applicant-David @ Pintu Sahu** be released on bail in the second round of litigation. Consequently, his second bail application is rejected.
10. Looking to the facts and circumstances of the case, looking to the evidence material available on record against the **applicant-Yadram Sahu**, looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of CrPC to him. Consequently, his first bail application is rejected.
11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-