

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3235 of 2019**

Shyam Bihari Sharma S/o Shri Kedar Sharma Aged About 28 Years R/o Permanent Residence - Rara Sahpur, Post - Shorpur, Thasil - Hindauncity, District Karauli, Thana - Surauth, Rajasthan, Present Address - Posted As Constable R.P.F. Tumsar Road, Nagpur Division, Maharashtra., District : Nagpur, Maharashtra

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer - Ratanpur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Vinay Pandey, Advocate
For the State	:	Shri SRJ Jaiswal, Panel Lawyer
For the Objector	:	Ms. Madhunisha Singh, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

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

1. Heard on I.A. No.1.
2. Looking to the facts and circumstances of the case counsel for the Objector is permitted to assist the State counsel.
3. This is the first bail application under Section 439 of the CrPC and there is no bail application pending before any other Court.
4. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.310/2017 registered at Police Station Ratanpur, District Bilaspur (C.G.) for the offence punishable under Sections 376 and 506 of IPC.
5. Case of the prosecution, in brief is that prosecutrix is aged about 25 years. She is resident of Chingrajpara, Bilaspur. In the month of October 2015 applicant who was the Constable in RPF took her Khuntaghat forest saying that he introduce her to his officer for getting the job. He committed forcible sexual intercourse with her showing gun, prepared her video, gave threats to kill her. Thereafter he committed repeatedly sexual intercourse with her giving threatening

that he will viral her obscene video.

6. Counsel for the applicant submits that there is a variation in prosecution story. The gun is not allotted to RPF Constable, charge-sheet has been filed, FIR is delayed by two years, 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 is reported in the Police Case Diary.
8. What would be the effect of delayed FIR, it would be considered by the trial Court at the time of disposal of the case. At this stage this Court cannot appreciate evidence. It is well settled that this Court cannot touch merits and demerits of the case while deciding bail application.
9. Looking to the above mentioned facts and circumstances of the case, looking to the *prima facie* material available on record against the applicant, 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