

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3294 of 2019**

Bhaskar Dutt Arya S/o Late Gopal Krishna Arya Aged About 28 Years
R/o Silli (Boida), Choki-Hardi Bazar, P.S. Kusmunda, District- Korba,
Chhattisgarh., District : Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. P.S. Pali, District- Korba,
Chhattisgarh., District : Korba, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri H.V. Sharma, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****17/06/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 22/02/2019 in MCRC No. 108/2019.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.223/2018 registered at Police Station Pali, District Korba (C.G.) for the offence punishable under Sections 450, 376 of IPC.
3. Case of the prosecution, in brief is that on 04/09/2018 the prosecutrix was aged about 24 years old. She is a resident of village Kartali. On 04/09/2018 at about 11.00 a.m., the applicant entered in the house of prosecutrix and committed sexual intercourse with her.
4. Counsel for the applicant submits that prosecutrix has been examined in the trial Court and from her statement it appears that she was the consenting party. He drew my attention on para 4 and 16 of certified copy of the statement of prosecutrix, which is part of the bail application. He further submitted that applicant was allegedly present there for three hours, no resistance had been offered by the prosecutrix, applicant is in jail since nine months, thus he may be released on bail.
5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
6. From the entire statement of the prosecutrix *prima facie* it can not be said that no case is made out against the applicant.
7. There is no change of circumstances of the case on the strength of which the applicant is entitled to get benefit of Section 439 CrPC, consequently, second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge