

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3440 of 2019**

Radhelal Manhare, S/o late Shri Ramchand Manhare, aged about 55 years,
R/o Sakin, Village Dumar, P.S. Nandini Nagar, Tahsil Dhamdha, District Durg
(CG). **---- Applicant**

Versus

State of Chhattisgarh, through District Magistrate, Durg (CG).

---- Non-applicant

For Applicant	: Mr. Aditya Tiwari, Advocate
For Non-applicant	: Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

18.06.2019

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.09/2019 registered at Police Station Nandini Nagar, Durg for the offence punishable under Sections 376 & 506 of Indian Penal Code.
3. The first bail application of the applicant was dismissed for want of prosecution by this Court vide order dated 03.05.2019 passed in M.Cr.C. No.2616/2019.
4. Case of the prosecution, in brief, is that prosecutrix is the mother of the applicant. On 14.01.2019 between 21.00 to 22.00 hrs at village Dumar, applicant has forcibly got consumed liquor to the prosecutrix and committed rape with her after given threatening to kill her.
5. Counsel for the applicant submitted that the applicant has not committed any offence and has been falsely implicated in the case. He further submitted that the medical evidence has not supported the prosecution case. The applicant had refused to sell of his land for repayment of loan thus the prosecutrix has lodged a false report against him and as such the applicant may be released on bail.
6. On the other hand, counsel for the State opposed the bail application.
7. The aforesaid facts raised by the counsel for the applicant are the subject matter of scrutiny of evidence. This is well settled legal position that while dealing with the bail application, this Court neither scrutinize nor appreciate the evidence. At this stage, this Court also cannot touch the merit and demerit of the case.
8. Looking to above mentioned facts and circumstances of the case and 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 the applicant. Consequently, the second bail application is rejected.
9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE