

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4126 of 2019**

- Rajesh Shandilya S/o Dular Sai Aged About 20 Years R/o Bhilai Kala, Police Station And Tahsil- Dhourpur, District- Surguja, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station- Dhourpur, District- Surguja, Chhattisgarh

---- Non Applicant

For the applicant : Shri Vivek Tripathi, Advocate

For Non Applicant : Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16.07.2019**

1. This is third 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 Earlier, the first bail application of the applicant was dismissed as withdrawn on 10.12.2018 by this Court in MCRC No. 4670 of 2018, second bail application was also dismissed as withdrawn on 13.05.2019 by this Court in MCRC No.1900 of 2019.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.52/2017 registered at Police Station- Dhourpur, District- Surguja (C.G.) for the offence punishable under Sections 363, 366, 376(2) N, 506-B & 306 of Indian Penal Code and

Section 5L, 6 of protection of Children from Sexual Offences Act.

4. Case of the prosecution, in brief is that at the time of alleged incident prosecutrix was 14 years old. She was a resident of Chitarpur. On 25.07.2017, at about 6:00 p.m., at village Bhilai kala applicant took her by threatening in his house and committed forcible sexual intercourse with her.
5. Learned counsel for the applicant submits that applicant is in jail since February, 2018, he further submits that as per the Dehati Nalisi dated 29.07.2017 she became conscious on 29.07.2017 there is no report of duty doctor that when she became conscious. Thus, he may be released on bail.
6. Learned counsel for the applicant placed reliance in the decision of Hon'ble Supreme Court in the matter of **Pankaj Vs. State of Rajasthan 2017 CRI. L.J. 1076**.
7. On the other hand, learned counsel for the State opposes the bail application.
8. In the Dehati Nalisi itself It has been mentioned that prosecutrix became conscious on 29.07.2017. Moreover, the aforesaid judicial precedent laid down by Hon'ble Supreme Court in the matter of Pankaj (Supra) is related to the appreciation of the evidence. Thus, at this stage applicant does not get any help from said decision regarding bail.
9. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicant, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the third bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge