

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4138 of 2019**

Mubarak Hussain S/o Sarafuddin Ansari Aged About 33 Years R/o Dudhwal, Police Station Ranka Gadhwa Jharkhand, Presently Residing At Sendur, Police Station Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri P.K. Patel, Advocate
For the State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**16/07/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 26/03/2019 in MCRC No.1635/2019 considering *prima facie* case against him.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.228/2018 registered at Police Station Balrampur, District Balrampur-Ramanujganj (C.G.) for the offence punishable under Sections 376, 354, 354-B of IPC and Section 4,8 of POCSO Act.
3. Case of the prosecution, in brief is that on 26/12/2018 prosecutrix was aged about 16 years. She is resident of Balrampur. On 26/12/2018 at about 7.30 pm to 8.30 pm near the Sindoor river Balrampur, in the garb of exorcism, the applicant

pressed her breast and inserted his finger in her private part.

4. Counsel for the applicant submitted that prosecutrix has been examined in the trial Court. She did not support the prosecution case and turned hostile, 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. As per the certified copy of the statement of the prosecutrix recorded by the trial Court, which is part of the bail application she has stated in examination-in-chief that applicant had not committed any wrong act with her. She did not support the prosecution case and turned hostile. These circumstances are sufficient to enlarge the applicant on bail in second round of litigation. Consequently the bail application is allowed and it is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that he shall appear before the trial Court at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.
7. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge