

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4099 of 2019**

Surendra Patre S/o Indra Lal Patre Aged About 33 Years R/o Village  
Pipartarai, Tahsil Kota, District Bilaspur Chhattisgarh

---- Applicant

**Versus**

State Of Chhattisgarh Through Police Station Kota, District Bilaspur  
Chhattisgarh

---- Respondent

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|---------------|---------------------------------------------------|
| For applicant | Mr. C.K. Kesharwani with Shri Tarun Dadsena, Adv. |
| For State     | Mrs. M. Asha, PL                                  |

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**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****12-7-2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. His first bail application MCRC No. 106/2019 was dismissed by this Court vide order dated 30-1-2019 considering prima facie case against the applicant.
2. The applicant has been arrested in connection with Crime No. 579/2018 registered in police station Kota, Distt. Bilaspur (CG) for offence punishable under Section 450, 506 and 376 of the IPC.
3. Perused the case diary.
4. Prosecution story in brief is that prosecutrix is about 18 years and 9 months old. She is a resident of village Pipartarai. Two months prior to 25-11-2018 between 12.00 and 1.00 pm prosecutrix was alone in her house. The applicant entered into her house, committed forcible sexual intercourse with her. He also gave threats to kill her if she narrates the incident to anyone. One week prior to 25-11-2018 she narrated the incident to her family members.
5. Counsel for the applicant argued that the applicant is in jail since 25-11-2018. So far no witness has been examined by the prosecution. FIR is delayed by two months. The applicant has been falsely implicated to grab the property. Medical evidence does not support the case of the prosecution. Thus, he may be enlarged on bail.

6. What would be the effect of delay in lodging the FIR would be considered at the time of appreciation of evidence by the trial Court. Mere delay itself is not a sufficient ground to enlarge the applicant on bail. Further, if medical evidence does not support the prosecution case, it also does not make the applicant entitle for grant of bail. Looking to the nature and gravity of offence of the case in hand, the period of detention of applicant is immaterial.
7. Looking to the above mentioned facts and circumstances of the case, there is no change of circumstances in the present case which may entitle the applicant for release on bail.
8. The application is thus rejected.

**Sd/-**  
**(Sharad Kumar Gupta)**  
**Judge**