

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4155 of 2019**

Ramawatar Shriwas S/o Judawan Shriwas Aged About 35 Years R/o Village Jiratola, P. S. Gandai, Tahsil Chhuikhadan, Civil And Revenue District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer Police Station Gandai, Civil And Revenue District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri S.S. Baghel, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

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

1. This is the third bail application under Section 439 of the CrPC. First bail application was rejected by this Court on 06/02/2019 in MCRC No.323/2019 considering *prima facie* case against him. His second bail application was also rejected by this Court on 09/04/2019 in MCRC No. 2049/2019 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.248/2018 registered at Police Station Gandai, District Rajnandgaon (C.G.) for the offence punishable under Sections 506, 376, 509, 354(A)(B) of IPC.
3. Case of the prosecution, in brief is that on 27/09/2018 the prosecutrix was aged about 31 years old. She is a resident of

village Jiroto. On 27/09/2018 at about 5 a.m. at village Jiratola in front of her house, the applicant pressed her mouth and gave threats to kill her and committed forcible sexual intercourse with her. When she removed his hand from her mouth and shouted, at that time her husband came there then the applicant fled away from the spot.

4. Counsel for the applicant submitted that prosecutrix has been examined in trial Court, applicant is innocent and falsely implicated in the present case, thus he may be released on bail. He drew my attention in para 8 and 10 of the certified copy of the statement of the prosecutrix, which is part of the bail application.
5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
6. Prosecutrix had stated against the applicant in para 1 of her statement recorded by the trial Court. What would be effect of para 8 & 10 of statement of prosecutrix is the subject matter of the scrutiny of the evidence. This is settled legal principle that while deciding the bail application Court cannot touch the merits and demerits of the case, this is also well settled legal principle of law that at this stage this Court cannot appreciate the evidence.
7. Looking to the above mentioned facts and circumstances of the case, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the third bail application is rejected. However, the trial Court is directed to expedite the trial and dispose of the case as soon as possible.

Sd/-
(Sharad Kumar Gupta)
Judge