

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4222 of 2019**

- Shri Panbudi @ Mukhiram Sahu S/o Shri Jhaduram Sahu Aged About 65 Years R/o Village- Thakurdeva, Chowki- Malhar, Police Sattion- Masturi, District- Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Masturi, District- Bilaspur, Chhattisgarh

-----Non Applicant

For the Applicant : Mr. Ashutosh Shukla, Advocate

For Non Applicant : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****26.08.2019**

1. Alleged informant/uncle of the prosecutrix-Ajay Kumar Sahu is absent.
2. This is second 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.
3. Earlier, the first bail application of the applicant was dismissed for want of prosecution on 17.06.2019 in MCRC No.2691/2019.
4. Perused the case diary provided by the learned counsel for the State in connection with Crime No.573/2018 registered at Police Station- Masturi, District-Bilaspur (C.G.) for the offence punishable under Sections 376, 511, 342 of Indian Penal Code & Section 4 POCSO Act.
5. Case of the prosecution in brief is that prosecutrix is about 7 years old.

She is resident of village Thakurdeva. On 11.11.2018 about 12:00 hours, at village Thakurdeva, applicant took prosecutrix in his house and confined her. He removed her underwear, lay upon her body and committed wrong act with her.

6. Counsel for the applicant submitted that applicant has no criminal background, he is innocent and has been falsely implicated in the present case. He further submitted that charge sheet has been filed. Applicant is 65 years old, he is in jail for more than 11 months. As per the MLC report no injury was found on the body of the prosecutrix, thus, he may be released on bail.
7. On the other hand, learned counsel for the State opposed the bail application, however, he submits that one another criminal case has been registered against the applicant.
8. On 19.08.2019 the said informant appeared before this Court and submitted that applicant may not be released on bail.
9. Now it is well settled legal principle that if the MLC report does not support the prosecution case, it would not falsify statement of the prosecutrix.
10. Looking to the above mentioned facts and circumstances of the case, looking to the prima facie material available on record against the applicant, looking to the age of the prosecutrix, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society. Consequently, the second bail application is rejected. However, trial Court is directed to expedite the trial and conclude the same as earlier as possible.

Sd/-

(Sharad Kumar Gupta)
Judge