

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4654 of 2019**

Kishor Kumar @ Chhotu S/o Mangal Bhardwaj Aged About 29 Years R/o Shyam Nagar, Thethwar Para, Camp-2, Bhilai, Police Station- Chhawani, Tahsil And District- Durg, Chhattisgarh, District : Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station- Chhawani, District- Durg, Chhattisgarh, District : Durg, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Uttam Pandey, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**24/09/2019**

1. Allegedly authorized person of informant Smt. Kameshwari Sahu is present, who is the husband of the informant, his name is Baleshwar Sahu. After putting some questions this Court satisfied that the person who is present in the Court is Baleshwar Sahu, husband of the informant and authorized by the informant.
2. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was dismissed as withdrawn by this Court on 29/01/2019 in MCRC No. 9094/2018.
3. Perused the case diary provided by the counsel for the State in connection with the Crime No.518/2018 registered at Police Station Chhawani, District Durg (C.G.) for the offence punishable under Sections 363, 376 (क) (ख) of IPC and Section 5 (ड) and 6 of POCSO Act.
4. Case of the prosecution, in brief is that prosecutrix is below 4 years of age. On 26/06/2018 at about 3 p.m. at Thethawarpara Camp-2, Bhilai, applicant took prosecutrix on pretext of the roaming to his house, removed her underwear and discharge the sperm on his private part.
5. Counsel for the applicant submitted that he is innocent and has been

falsely implicated in the present case. He further submitted that applicant is jail since 08/07/2018. there was the previous enmity between applicant and family members of the prosecutrix. In the house of applicant 8 other persons also reside, thus the prosecution story is highly improbable, therefore applicant may be released on bail.

6. On the other hand, counsel for the State opposes the bail application. He further submits that two other criminal cases under IPC have been registered against the applicant in police case diary.
7. This is well settled legal position that while dealing the bail application, this Court can not look into the defense of accused.
8. This is true that detention period of the accused is a considerable factor for disposal of the bail application, but equally it is also true that gravity of the offence, impact of granting bail to accused on society, seriousness of the offence, are also material and important factors for disposal of the bail application.
9. Looking to the above mentioned facts and circumstances of the case, looking to the *prima facie* material available on record, looking to the seriousness of the offence, looking to the impact on society of granting bail, this Court is not inclined to release applicant on bail in second round of litigation. Consequently, second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge