

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5152 of 2019**

Subhash Chouhan S/o Shri Mansharam Chouhan Aged About 21 Years
R/o Village Nageda, P.S. Rajadeori, District Balodabazar-Bhatapara
Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- **Applicant**

Versus

State Of Chhattisgarh Through Police Station Salihai, District
Balodabazar-Bhatapara Chhattisgarh., District : Balodabazar-
Bhathapara, Chhattisgarh.

---- **Respondent**

For the Applicant	:	Shri Anchal Kumar Matre, Advocate
For the State	:	Shri Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

18/09/2019

1. After putting some questions this Court satisfied that the person who is present in the Court is the informant Fool Singh Bariha.
2. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 08/04/2019 in MCRC No.1047/2019 considering *prima facie* case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.01/2019 registered at Police Station Saliha, District Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 363, 376 of IPC and Section 4, 18 of the POCSO Act.
4. Case of the prosecution, in brief is that on 03/01/2019 prosecutrix was below 16 years of age. She is resident of village Rajadeori. On 03/01/2019 applicant took prosecutrix forcefully village Memra, thereafter village Darrabhata. They stayed there till 08/01/2019 meanwhile applicant committed forcible sexual intercourse with prosecutrix.
5. Counsel for the applicant submitted that he is innocent and falsely

implicated in the present case. He further submitted that in the case in hand prosecutrix has been examined in the trial Court she turned hostile and did not support the prosecution case, thus, applicant may be released on bail.

6. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant in police case diary.
7. Informant Fool Singh submitted that applicant may not be released on bail.
8. As per the true copy of the statement of the prosecutrix which is the part of the bail application she made statement in examination-in-chief that no incident was occurred with her on 03/01/2019 she had gone to the house of her girlfriend after making quarrel with grandfather and grandmother. 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.
9. Consequently, the second bail application of the applicant is allowed and it is directed that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond of Rs. 25,000/- to the satisfaction of the concerned Court with the condition that the applicant shall not involve himself in similar type of crime in future. 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.

Sd/-
(Sharad Kumar Gupta)
Judge