

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 05-09-2019

Delivered on 06-09-2019

MCRC No. 5428 of 2019

- Mukesh Hathile @ Mukku Hathile S/o Ram Avtar Hathile Aged About 30 Years R/o Shanti Nagar, Indrapuri, Ward No. 12, Tifra, Police Station Civil Line, Bilaspur, District- Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mahila Police Station, Bilaspur, Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Rajneesh Shrivastava, Advocate
For Non Applicant	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**CAV Order**

1. This is third 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.
2. Earlier, the first bail application of the applicant was rejected by this Court by order dated 14.02.2019 passed in MCRC No.673 of 2019 considering prima facie case against him, his second bail application was rejected by this Court by order dated 07.05.2019 passed in MCRC No.2698 of 2019 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.51/2018 registered at Police Station- Mahila Police Station Bilaspur, District- Bilaspur (C.G.) for the offence punishable under Sections 376, 323/34 of the Indian Penal Code and

Sections 4,6 of the POCSO Act.

4. Case of the prosecution, in brief, is that on 14.10.2018 in the night, the prosecutrix had gone to see Dandiya dance towards Maharana Pratap Chowk, when she was returning back to her house at about 2:00 am the applicant and co-accused Komal Tonde reached near to her and the applicant committed sexual intercourse with her.
5. Counsel for the applicant submitted that prosecutrix and her mother turned hostile in trial Court and did not support the prosecution case. He drew my attention on para 1, 2, 7 of the photocopy of the statement of P.W. 1 prosecutrix, photocopy of statement of P.W.2 Paro who is mother of the prosecutrix which are the part of the bail application.
6. On the other hand, learned counsel for the State opposes the bail application, however, he submits that there is no criminal antecedent against the applicant reported in Police case diary.
7. As per the photocopy of statement of prosecutrix which is the part of the bail application she had stated in para 2 during the examination in chief against the applicant.
8. This is well settled legal position that while dealing with the bail application, this Court neither scrutinise the evidence nor appreciate the evidence. At this stage, this Court cannot touch the merits and demerits of the case.
9. Looking to the above mentioned facts and circumstances of the case, looking to the prima facie materials available on record against the applicant, this Court is not inclined to release the applicant on bail in third round of litigation. Consequently, the third bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge