

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5463 of 2019**

- Mahendra Singh @ Mahendra Shaam S/o Shri Ramruch Aged About 29 Years R/o Champapur, Police Station Balrampur, District Balrampur Ramanujganj Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Balrampur, District Balrampur- Ramanujganj Chhattisgarh

---- Non Applicant

For the Applicant : Mr. Vikash Pandey, Advocate

For Non Applicant : Mr. Vaibhav K. Agrawal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****05.09.2019**

1. 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.
2. Earlier, the first bail application of the applicant was rejected by this Court on 30/10/2018 by this Court in MCRC No.6458 of 2018, considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.139/2018 registered at Police Station-Balrampur, District-Balrampur-Ramnuganj (C.G.) for the offence punishable under Sections 376, 506, 342 of the Indian Penal Code.
4. Prosecution story in brief is that prosecutrix is about 28 year old and is

resident of village Lamki. On 12.07.2018, she was sleeping in her house in night. Her husband had gone away to village Kapildevpur. About 11 pm, applicant knocked the door and told that her husband has fallen on the road. Prosecutrix opened the door. Thereafter, applicant committed sexual intercourse with her, after pressing her neck and giving threatening to kill.

5. Learned counsel for the applicant submits that applicant has no criminal background, he is innocent and has been falsely implicated in the present case. He further submits that in the case in hand, prosecutrix has been examined but she did not support the prosecution case and turned hostile, thus he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against the applicant in police case diary.
7. As per the certified copy of the statement of P.W.3 prosecutrix recorded by trial Court she had stated in examination in chief that applicant has not committed anything with her. She stated that applicant had plugged their leased land thus she lodged a report in Police Station Balrampur. She did not support the prosecution case and turned hostile.
8. These circumstances are sufficient to enlarge the applicant on bail in second round of litigation.
9. Looking to the facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence. The bail application is allowed. It is directed that if 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 he will appear before the trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he be released on bail.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge