

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5598 of 2019**

- Jagbali @ Babua S/o - Alam Sai Aged About 32 Years, R/o - Village Umjhar, Police Outpost- Moharsop, Police Station - Chandni, District Surajpur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through : Police Outpost Moharsop, Police Station-Chandni, District Surajpur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Aman Upadhyay, Adv.
For Respondent/State	: Mr. B.L. Sahu, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****11.11.2019**

1. The accused/applicant has moved this first bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 37/2019 registered at Police Outpost-Moharshop, Police Station Chandni, District-Surajpur (C.G.) for the offence punishable under Sections 376 and 450 of IPC.
2. The prosecution story, in brief is that, on 12.06.2019 the prosecutrix was lodge a report that on the day of incident i.e. 11.06.2019 at about 9 pm., when after having dinner she was sleeping with her children, due to hot weather she kept the door open. Thereafter, at 12 AM., the applicant/accused came in her bedroom and asked for water. The prosecutrix gave him water which he did *gudakhu* with and thereafter the applicant/accused tossed the prosecutrix from the *Khatiya* to ground and committed sexual intercourse with her without her consent. Suddenly her husband came back from work and listening the sound of his motorcycle, applicant left the prosecutrix and ran away from the place. Based on this offence has

been registered against the present applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that the Doctor who has examined the prosecutrix, has stated in her medical report that no internal or external report found on the body of the prosecutrix. The applicant is in jail since 16.06.2019, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.
4. On the other hand, counsel for the State opposes the bail application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, further considering the fact that the medical report is not supported the prosecution case, the applicant is in jail since 16.06.2019 and the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
7. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**