

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5539 of 2019**

Manoj Tiwari, S/o. Late Shri Shivprashad Tiwari, Aged About 35 Years, R/o. Village Murai, Police Station and Tahsil Chuikhadan, District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Chuikhadan, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rakesh Thakur on behalf of Mr. Shashi Bhusan Tiwari, Advocate
For Respondent/State	: Mr. Sudhir Sahu, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**28/11/2019**

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.125/2019, registered at Police Station – Chuikhadan, District – Rajnandgaon (C.G.) for the offence punishable under Section 376, 506 of the Indian Penal Code. The first bail application of the applicant was dismissed as withdrawn vide order dated 17.07.2019 in M.Cr.C. No. 3303/2019.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. FIR has been delayed by one day and the allegation of the prosecutrix is not supported by medical evidence. The applicant is in jail since 25.04.2019 and the trial against the applicant is still not completed. Therefore, it is prayed that during the pendency of trial, this applicant

be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there is direct evidence present against the applicant regarding commission of offence. Therefore, he is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, on the date of incident, the applicant caught hold of the prosecutrix and took her to his house and then by taking her inside the house and he forcefully committed rape with her. The prosecutrix came out of the house of the applicant and immediately informed about the incident to her husband and others.
6. Considered on the submissions made and the contents of the case diary. Although the lodging of FIR is after one day but the statement of the witnesses support the version of the prosecutrix that she immediately informed about the incident, therefore, looking to the substance present against the applicant, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge