

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5585 of 2019**

- Yogesh Vishwakarma @ Chhotu @ Yogi S/o Shri Uttam Vishwakarma Aged About 21 Years R/o Village Lachkera, Police Station Fingeshwar, District Gariyaband, Chhattisgarh.

**---- Applicant****Versus**

- State Of Chhattisgarh Through District Magistrate Fingeshwar, District Gariyaband, Chhattisgarh.

**---- Respondent**

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| For Applicant        | : Smt. Sunita Sahu, Advocate. |
| For Respondent/State | : Shri Ajay Kumrani, P.L.     |

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**Hon'ble Shri Justice Arvind Singh Chandel**  
**Order On Board**

**14/10/2019**

1. The Applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 178/2018, registered at Police Station – Fingeshwar, District - Gariyaband, (C.G.) for the offence punishable under Sections 363, 366, 376 (2), 34 of IPC.
2. First bail application of the Applicant was earlier dismissed as withdrawn vide order dated 04.04.2019 passed in MCRC No. 1951/2019.
3. In this case, age of the prosecutrix at the relevant time was about 13 years and 9 months. On 24.10.2018, a report has been lodged by the prosecutrix alleging therein that on 20.10.2018 around 5:00 pm, when she was returning after toilet, allegedly, near a pond, present Applicant and co-accused Shrawan forcibly took her with them in a motorcycle, and thereafter, co-accused Shrawan committed sexual intercourse with her. On the basis of the above report, offence has been

registered. Present Applicant has been arrested on 27.11.2018.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. She further submits that co-accused Shrawan is the main accused who committed sexual intercourse with the prosecutrix. The only allegation against the present Applicant is that he was present alongwith the co-accused Shrawan during the incident. It is further submitted that prosecutrix has already been examined before the trial Court and in her Court statement she has not stated anything specific against the present Applicant. Applicant is in custody since 27.11.2018 and trial is likely to take some time. Therefore, he may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties, perused the case diary and Court statement of the prosecutrix.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the age of the prosecutrix and role played by the Applicant, in my considered opinion, I am not inclined to release the Applicant on bail.
8. Accordingly, the bail application is rejected.

Sd/-  
**(Arvind Singh Chandel)**  
**Judge**