

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5688 of 2019**

Suraj Soni S/o Ramdev Soni Aged About 22 Years R/o Sector -8 Road - 48, Quarter No. 2-A, Servant Quarter, Bhilai, Nagar, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Bhilai Nagar, Civil And Revenue District Durg Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sanjay Kumar Agrawal, Advocate
For the State	:	Shri Vaibhav K. Agrawal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**24/09/2019**

1. After putting some questions this Court satisfied that the person who is present in the Court is Meena Vishwakarma, informant-mother of the prosecutrix.
2. This is the third bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 02/04/2019 in MCRC No. 9886/2018 considering *prima facie* case against him. His second bail application is dismissed for want of prosecution by this Court on 09/08/2019 in MCRC No. 4709/2019.
3. Perused the case diary provided by the counsel for the State in connection with the Crime No.428/2018 registered at Police Station Bhilai Nagar, District Durg (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 3, 4 of POCSO Act.
4. Case of the prosecution, in brief is that in the month of August 2016, prosecutrix was below 16 years of age. She is resident of Section-9 Bhilai. In August 2016 applicant committed forcible sexual intercourse with her. On 03/10/2018 applicant took her by enticing on pretext of the marriage and committed sexual intercourse with her on pretext of the marriage.

5. Counsel for the applicant submitted that he is innocent and has been falsely implicated in the present case. He further submitted that prosecutrix has been examined in the trial Court, she did not support the prosecution and turned hostile, therefore applicant may be released on bail.
6. On the other hand, counsel for the State opposes the bail application. However, he submitted that as per the statement of the prosecutrix applicant committed sexual intercourse with her on pretext of the marriage. He further submitted that no antecedent against the applicant.
7. Informant Meena Vishwakarma submitted that applicant may be released on bail.
8. As per the true copy of the statement of the prosecutrix recorded by the trial Court on 24/05/2019 which is part of the bail application she had made statement in para No. 1 during examination in chief that no incident was happened with her. A quarrel was happened between her and her mother and she went to the house of her girlfriend at village Nikumbh without intimating to anyone. She did not support the prosecution and turned hostile. These circumstances are sufficient to enlarge the applicant on bail in third round of litigation.
9. Consequently, it is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that he shall appear before the trial Court at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.
10. Certified copy as per rules

Sd/-
(Sharad Kumar Gupta)
Judge