

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5740 of 2019**

Devi Prasad Choudhary S/o Shri Sita Ram Choudhary, aged about 32 years R/o Bhairampurdiha, Police Station Katra Bazar, District Gonda (Uttar Pradesh).

---- Applicant

Versus

State Of Chhattisgarh through The Station House Officer, Police Station Urla, District Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Shivendu Pandya, Advocate.
For Respondent/State : Mr. Amit Verma, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

18/11/2019

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. 329/2018 (As per charge sheet), registered at Police Station–Urla, District- Raipur (C.G.) for the offence punishable under Sections 376, 342, 506 (As per Charge Sheet) and 376 (2) (n), 342, 506 Part-2 of IPC (As per charges framed by the Trial Court).
2. First bail application was dismissed as withdrawn with liberty to file a fresh after examination of the prosecutrix before the Trial Court vide order dated **12.03.2019** passed in **MCRC No.9521/2018**.
3. As per the prosecution story, on 19.08.2018, when the prosecutrix was alone in the labour quarter of N.S. Spat, the present Applicant entered the house and tried to outrage the modesty of the prosecutrix and committed sexual intercourse with her. On the basis of above, offence has been registered. The Applicant is in custody since 20.08.2018.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. He submits that charges were framed on 25.05.2019 and thereafter till date prosecutrix has not appeared before the Trial Court therefore, she could not be examined. He further submits that on perusal of the order sheets of the Trial Court it appears that Trial Court is trying to avoid the examination of the said witnesses and unfortunately, the said witness have not been examined till date. 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 and perused the case diary with due care.
7. Considering the facts and circumstances of the case, I am not inclined to grant bail to the Applicant without examination of the prosecutrix.
8. Accordingly, the bail application is rejected.
9. However, liberty is granted to revive the same after six months if prosecutrix is not examined before the Trial Court.

Sd/-
(Arvind Singh Chandel)
Judge