

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5809 of 2019**

- Bheem Banjara S/o - Bagharam Banjara Aged About 32 Years R/o - Village Baturabahar, Police Station Pathalgaon District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Pathalgaon, District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh

---- Non-applicant

For Applicant : Shri Manoj Chouhan, Advocate.

For Non-applicant : Shri Vaibhav Kumar Agrawal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****17.09.2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant has been rejected by this Court on 18.01.2019 in MCRC No. 9957 of 2018 considering the prima facie case against the applicant.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 184/2018 registered at Police Station – Pathalgaon, District – Jashpur (C.G.) for the offence punishable under Section 354, 506, 376, 511 of the Indian Penal Code.
4. Case of the prosecution, in brief is that prosecutrix is aged about 20 years old and resident of village Navin Chandagarh. On 01.08.2018 on the proposal of applicant he had taken the lift from applicant at village from Tamta to Chandagarh Chowk, he had left him at Chandagarh Chowk by his motorcycle. Due to raining she went in a new constructed house. After sometime applicant

reached there and committed forcible sexual intercourse with her. He got her drink phenol.

5. Counsel for the applicant submitted that prosecutrix has been examined by the trial Court. He drew my attention on the para 6, 7 and 18 of the certified copy of the statement of prosecutrix recorded by the trial Court which is part of the bail application, thus, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however submits that there is no antecedent against the applicant in the case diary.
7. As per the certified copy of the statement of the prosecutrix she had stated against applicant during the examination in chief in para 2.
8. It is well settled legal position that while dealing with the bail application Court can neither scrutinise the evidence nor appreciate the evidence. It is only the trial Court who can do so.
9. Looking to the above mentioned facts and circumstances of the case, looking to the prima facie material available on record against the applicant, looking to the seriousness of the offence, this Court finds that there is no material change in the circumstances which may entitle the applicant to be released on bail in second round of litigation. Consequently, the present bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE