

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5989 of 2019**

- Mukesh Sahu S/o Madhusudan Sahu Aged About 21 Years Resident Of Village Nayapara, Khurd, Thana Pithora, District Mahasamund Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pithora, District Mahasamund Chhattisgarh

---- Non Applicant

For the Applicant : Shri Vikash Pradhan, Advocate

For Non Applicant : Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

19.09.2019

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 was rejected on 02.08.2019 by this Court passed in MCRC No. 4072 of 2019 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.197/2018 registered at Police Station- Pithora, District- Mahasamund (C.G.) for the offence punishable under Section 376 of Indian Penal Code.

4. Prosecution story in brief is that on 04.10.2018 prosecutrix was aged about 35 years old. She is a resident of village Nayapara Khurd. The applicant is her brother-in-law (Devar). On 04.10.2018 at about 22:00 hrs, she was alone in her house, at that time, he entered into her house and took her towards courtyard of her house and committed forcibly sexual intercourse with her. When she shouted, her husband came there and the applicant ran away from there.
5. Counsel for the applicant submitted that prosecutrix has been examined by the trial Court, she did not support the prosecution case regarding rape and turned hostile.
6. On the other hand, counsel for the State opposed the bail application, however, he submits that no criminal antecedent is reported against the applicant in police case diary.
7. As per the certified copy of statement of the P.W.-2 prosecutrix, she had not stated, as mentioned in prosecution case that applicant allegedly committed forcible sexual intercourse with her. She stated in Para-2 that applicant molested her and told that she had made fun, she turned hostile. These circumstances are sufficient to enlarge the applicant on bail in second round of litigation.
8. Thus, the second bail application of applicant is allowed and it is ordered that if applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond of Rs.25,000/- to the satisfaction of the concerned Court with the condition that he will appear before the trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he be released on bail.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul