

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7079 of 2019**

- Gorelal Singh S/o Ramlakhan Singh, Aged About 44 Years R/o Bardiya, Godripara, Police Station Patna, District Koriya Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Ajak, District Koriya Chhattisgarh

----Non Applicant

For the Applicant : Mr. Anil Gulati, Advocate

For Non Applicant : Mr. Ravi Maheshwari, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****03.12.2019**

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 by this Court by order dated 21.01.2019 passed in MCRC No.9349 of 2018 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No. 03/2018 registered at Police Station- Ajak, District- Koriya (C.G.) for the offence punishable under Sections 376(2)(D), 328, 109, 115, 342 of Indian Penal Code and Section 3(1)(w), 3(2)(v) Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act.
4. Case of the prosecution, in brief is that prosecutrix is about 18 years old. She is resident of village Karhiya Khand. She is member of Scheduled Tribe. Applicant is neither member of Scheduled Caste nor Scheduled Tribe. On 15.08.2018 at about 3 p.m. at village Karhiya Khand, prosecutrix was going to see her paternal aunt. Co-accused

Shanti Rajwade whose house is on the way called prosecutrix. Prosecutrix went in her house. Co-accused Shanti Rajwade forced her to drink liquor. The applicant and co-accused Anupal Rajwade who were present in the house committed forcible sexual intercourse with the prosecutrix.

5. Counsel for the applicant submitted that prosecutrix has been examined in trial Court who did not support the prosecution case during her cross examination. Thus, applicant may be released on bail.
6. On the other hand, learned counsel for the State opposed the bail application, however, he submitted that there is no criminal antecedent against the applicant in the police case diary.
7. As per the certified copy of statement of P.W.1 prosecutrix which is the part of the bail application she had stated against the applicant in Paras 3 and 4 during the examination in chief.
8. This is well settled legal position that while dealing with the bail application Court can neither scrutinize the evidence nor appreciate the same. It is the trial Court who can do so.
9. Looking to the above mentioned facts and circumstances of the case, this Court finds that it is not a fit case where applicant may be released on bail in second round of litigation. Consequently, the second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul