

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7256 of 2019**

- Rajendra Das @ Lanjha S/o Radhe Das Aged About 19 Years (Wrongly Mentioned As Radheshyam Panika In The Bail Rejection Order Dated 08-10-2018), R/o Bakna Kala, Police Station Lundra, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Darima, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For applicant	Mr. Rahul Mishra, Adv.
For Respondent/State	Mr. Suyash Dhar, PL.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22-11-2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His first bail application was dismissed by this Court vide order dated 1-12-2018 passed in MCRC NO. 8871/2018.
2. The applicant has been arrested in connection with Crime No. 77/2018 registered in police station Darima, Distt. Sarguja (CG) for offence punishable under Section 366, 376(2)(n) of the IPC.
3. Perused the case diary.
4. Prosecution story in brief is that on 16-7-2018 prosecutrix was more than 18 years old. She is resident of village Kanthi. On 16-7-2018 applicant took her on pretext of marriage and repeatedly committed sexual intercourse with her. On 19-7-2018 she came to know that applicant is already married.
5. Counsel for the applicant argued that the applicant is innocent and falsely implicated. The prosecutrix was aged about 18 years. She lived with the applicant for 3 days. She is a consenting party. He drew my attention in para 4 of true copy of statement of P.W. 2 Bifaiya Das, mother of the prosecutrix. He further drew my attention in true copy of application of the prosecutrix. He further submitted that P.W. 2 Bifaiya

Das did not state that the applicant was already married.

6. On the other hand, the State Counsel opposed the bail application. However he submitted that no criminal antecedent of the applicant is reported in the police case diary.
7. As per application of the prosecutrix and her statement recorded under Section 161 of the Cr.P.C. the applicant was already a married person. She came to know this fact on 19-7-2018. In the case in hand, prosecutrix is yet to be examined.
8. Moreover, this is well settled legal position that at this stage Court can neither scrutinize the evidence nor appreciate it. It is also well settled legal position that while dealing with the bail application, court cannot touch merits or demerits of the case.
9. Prima facie at this stage it cannot be said that the prosecutrix is a consenting party.
10. In the case in hand, the applicant who was already married, repeatedly committed sexual intercourse with the prosecutrix.
11. Looking to the above mentioned facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in second round of litigation.
12. Consequently, this bail application is rejected.
13. However, the trial Court is directed to expedite the trial and dispose of the same as early as possible.

Sd/-
(Sharad Kumar Gupta)
Judge