

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7582 of 2019**

Vishwanath, S/o Rupan Yadav, aged about 20 years, R/o Village Baraundhi, Korva Bahra (wrongly mentioned as Kobrapara) Police Station Bhatgaon, District Surajpur (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station AJAK Surajpur, District Surajpur (CG). **---- Non-applicant**

For Applicant : Mr. Gyan Prakash Shukla, Advocate.
For Non-applicant : Mr. Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

05.12.2019

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the counsel for the State in connection with crime No.51/2019 (As per F.I.R.) registered at Police Station AJAK Surajpur, District Surajpur for the offence punishable under Sections 363, 366, 376/34 of Indian Penal Code and Sections 3(1)(w)(i), Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Earlier, the first bail application of the applicant was rejected on merits by this Court vide order dated 14.08.2019 passed in M.Cr.C. No.4701/2019.
4. Case of the prosecution, in brief is that on 17.03.2019 the prosecutrix was more than 17 years of age. She is a resident of village Kewra. She is a member of Scheduled Tribe. On 17.03.2019, the

applicant and co-accused Geeta Prasad and Loly took her forcefully towards Chera Forest by motorcycle. The applicant and co-accused Geeta Prasad left her and co-accused Loly was in the forest and, thereafter, the applicant and co-accused Geeta Prasad went away from there. Co-accused Loly committed rape with her.

5. Counsel for the applicant submitted that in the case in hand, the prosecutrix has been examined by the trial Court. She did not say anything against the applicant, hence he may be released on bail.

6. On the other hand, counsel for the State opposed the bail application, however, he submitted that no criminal antecedent is reported against the applicant as per police case diary.

7. As per certified copy of the statement of Prosecutrix (P.W.1), which is a part of bail application she did not say anything against the applicant. She has stated in para No.1 during examination-in-chief that she does not know the applicant. This circumstance is sufficient to enlarge the applicant on bail in the second round of litigation. Consequently, the second bail application is allowed.

8. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that he shall appear before the concerned Court at 11:00 am as and when directed till trial and he would co-operate during the trial, he shall be released on bail.

9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE