

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7786 of 2019**

- Geeta Prasad S/o Hirachand Rajwade Aged About 21 Years R/o Kewra Bojodand, Police Station Pratappur, District Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Ajak, Surajpur, District Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---- Non-applicant

For Applicant : Shri Pushpendra Kumar Patel, Advocate.

For Non-applicant : Shri Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****19.12.2019**

1. MCRC No. 7582/2019 received from the record room.
2. 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.
3. Earlier, the first bail application of the applicant has been rejected by this Court on 14.08.2019 in MCRC No. 4824 of 2019 considering the prima facie case against the applicant.
4. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 51/2019 registered at Police Station – Ajak, Surajpur, District – Surajpur (C.G.) for the offence punishable under Sections 363, 366, 376/34 of the Indian Penal Code and Section 4 of Protection of Children from the Sexual Offences Act, 2012 and Section 3(1)(W)(1), 3(2-5) of the Secheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
5. Case of the prosecution, in brief is that on 17.03.2019, the prosecutrix was more than 17 years of age. She is resident of village Kewra. She is a

member of Scheduled Tribe. On 17.03.2019, the applicant and coaccused Vishwanath Yadav and Loli took her forcefully towards Chera forest by motorcycle. Applicant and accused Vishwanath left her and Loli in the forest, thereafter, they went away from there. Coaccused Loli committed rape with her.

6. Counsel for the applicant argued that coaccused Vishwanath and Loli have been released on bail. He drew my attention on para 12 of the certified copy of statement of P.W.1 prosecutrix which is part of MCRC No. 7582 2019, thus, he may be released on bail.

7. 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.

8. Earlier coaccused Vishwanath was released by this Court because P.W.1 Prosecutrix had not said anything against him. The case of the applicant is totally different from coaccused Vishwanath.

9. In the case in hand P.W.1 prosecutrix had stated against the applicant in para 2 during the examination in chief.

10. This is well settled legal position that while dealing with the bail application this Court neither can scrutinize the evidence nor appreciate the same. This is also well settled legal position that while dealing with the bail application Court cannot touch the merits and demerits of the case.

11. Looking to the facts and circumstances of the case, this Court finds that this is not a fit case where the applicant may be released on bail in second round of litigation, consequently, the second bail application is rejected.

12. However, the trial Court is directed to expedite the trial and dispose off the case as soon as possible.

13. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE