

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 10074 of 2018

- Kamta Prasad Mayaram Yadav, Aged About 40 Years R/o Village Teepawan, P. S. Palari, District- Balodabazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Non-applicant

For Applicants : Shri A.S. Rajput, Advocate.
 For Non-applicant : Shri S.R.J. Jaiswal, P.L.

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

23/01/2019

1. This is first 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 learned counsel for the State in connection with crime No.559/2018 registered at Police Station Palari, District Balodabazar-Bhatapara,(C.G.) for the offence punishable under Sections 376 & 506 of Indian Penal Code.
3. Case of the prosecution, in brief is that prosecutrix is about 20 years old and resident of village Tipawan. Applicant is her father-in-law. On 17/10/2018 about 10:00a.m. at village Tipawan she was picking cow dung. Applicant caught hold of her, took her forcibly inside the room and had committed forcibly sexual intercourse with her.
4. Learned counsel for the applicant argued that the applicant has no criminal background, he is innocent, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application, however, submitted that there is no antecedent against the applicant.
6. Counsel for the applicant further submitted that FIR has been lodged 5 days after the alleged incident. Medical report of the Prosecutrix does not support the prosecution case. He is in jail since 12/10/2018. Charge-sheet has been filed. In the application of prosecutrix it has been mentioned that she had narrated the incident to her Devrani Rajni Bai and Badisas Kumari Bai, but they stated in their statement recorded under Section 161 CrPC that prosecutrix had not told that applicant had committed forcible sexual intercourse with her. In these circumstances he may be released on bail.
7. Not supporting medical evidence to the prosecution case, not stating by Rajni Bai and Kumari Bai in their statements that applicant had committed forcible sexual intercourse with her, are the aspects of the subject matter of scrutiny of evidence which cannot be done by this Court at this stage.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.
9. Certified copy as per rules.

Sd/-
 (Sharad Kumar Gupta)
JUDGE