

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8020 of 2019**

Mathur Singh Kirange @ Mathura S/o Ramlal Kirange Aged About 38 Years Resident Of Village Bhurbhusi, Police Station Ambagarh Chowki , District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Ambagarh Chwoki, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondent

For the Applicant	:	Shri Aditya Bhardwaj, Advocate
For the State	:	Shri Praveen Shrivastava, P.L.

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**13/12/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier his first bail application was rejected by this Court vide order dated 26/06/2019 in MCRC No. 2725/2019 considering *prima facie* case against him.
2. The applicant has been arrested in connection with Crime No.283/2018 registered in police station Ambagarh Chowki, Distt. Rajnandgaon (CG) for offence punishable under Section 376, 376(D), 506-B, 201 of IPC.
3. Prosecution story in brief is that prosecutrix is aged about 30 years. She is resident of village Chikhali. On 7-2-2018, she and her companion Baliram Sahu were sitting in a narrow culvert. At about 14.00 hours, applicant and co-accused Mansaram reached there holding axe. The applicant and co-accused Pyari Lal Mandavi and Mansharam took the prosecutrix and committed forcible sexual intercourse one by one. The applicant prepared a video of the incident in his mobile. The applicant, co-accused Pyari Lal Mandavi and Mansharam threatened her that if she will disclose the incident to anyone they will kill her and viral the video. Due to fear and insult, she did not lodge the report earlier and not

disclose about the incident to anyone. Thereafter applicant forced her for sexual intercourse otherwise he will viral the video. Thus she lodged the report.

4. Counsel for the applicant submitted that medical evidence does not support the prosecution case, there is no seizure of video, applicant is in jail since long back, thus he may be released on bail.
5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant is reported in the police case diary.
6. This is well settled legal position that while dealing the bail application Court neither can scrutinize the evidence nor appreciate the same. This is also well settled legal position that while dealing the bail application Court cannot touch the merits and demerits of the case.
7. This is true that detention period of accused is a material factor for disposal of the bail application. This is also true that seriousness of the offence and impact of granting bail to accused on society are more important and material factors while dealing the bail application of the accused.
8. What would be effect of medical examination would be considered at the time of appreciation of the evidence which only can be done by the trial Court.
9. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicant, this Court finds that it is not a fit case where the applicant may be released on bail in second round of litigation. Consequently second bail application of the applicant is rejected. However, the trial Court is directed to expedite the trial and dispose of the case as soon as possible.

Sd/-

(Sharad Kumar Gupta)
Judge