

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 373 of 2020**

Babulal, S/o Ramdev Aged about 20 years, R/o Village Puhputra, Police Station Darima, District Surguja (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station AJAK (Darima), District Surguja (CG).

---- Non-applicant

For Applicant	: Mr. Jitendra Shrivastava, Advocate
For Non-applicant	: Mr. Raghvendra Verma, G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****23.03.2020**

1. This is third bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.53/2019 registered at Police Station AJAK (Darima), Ambikapur (Surguja) for the offence punishable under Sections 366, 323, 506, 376(2)(n), 114 of Indian Penal Code and Sections 3(1)(द)(घ) & 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The first bail application of the applicant was rejected by this Court vide order dated 30.07.2019 passed in M.Cr.C. No.4095/2019 considering prima facie case against him. His second bail application was dismissed as withdrawn by this Court vide order dated 25.09.2019 passed in M.Cr.C. No.6039/2019.
4. Case of the prosecution, in brief, is that on 07.04.2019 the prosecutrix was aged about 18 years. She is a member of Scheduled Tribe. She is a resident of village Turra Awaradand. The applicant is neither the member of Scheduled Caste nor Scheduled Tribe. On 07.04.2019 at about 6.00 p.m., the applicant and co-accused Ritesh

Rajwade, Santosh Singh, Vikash Singh took her forcefully towards forest, they abused her on the caste basis and, thereafter, co-accused Ritesh Rajwade and applicant took her forcefully by motorcycle in the house of applicant. Co-accused Ritesh Rajwade committed sexual intercourse with her.

5. Counsel for the applicant submitted that the applicant is in jail since one year. The prosecution witnesses are not turning up in the trial despite of issuance ofailable warrant. He drew my attention on certified copy of order sheets, which are the part of bail application. He further argued that co-accused Vikash Singh and Santosh Singh are bailed out by the co-ordinate Bench of this Court in M.Cr.C. No.6071/2019. He drew my attention on Annexure A/4, which is the part of bail application. Thus, in the case in hand principle of parity is attracted. He further submitted that situation is critical looking to the corona virus. Thus, the applicant 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 has been reported against the applicant as per police case diary.

7. This is true that detention period of the applicant and delay in trial are material factors for disposal of the bail application. But equally it is also true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors for disposal of the bail application.

8. Earlier on 30.07.2019 this Court has rejected the first bail application of the applicant considering prima facie case against him. Later on, co-accused Vikash Singh and Santosh Singh have been bailed out by the co-ordinate Bench of this Court. The order of co-ordinate Bench does not reveal that this aspect was considered by her

that earlier on 30.07.2019, the first bail application of the applicant of this case was rejected by this Court considering prima facie case against him. Hence in these circumstances principle of parity does not attract in the case in hand.

9. Looking to the facts and circumstances of the case, this Court finds that spreading of corona virus is not sufficient ground to enlarge the applicant on bail.

10. Looking to the above mentioned 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 the third round of litigation. Consequently, the third bail application of the applicant is rejected.

11. At this stage, counsel for the applicant further submitted that liberty may be granted to file subsequent bail application after examination of the prosecutrix.

12. There is no need for grant of liberty to file any subsequent bail application.

13. The applicant is free to pursue the attendance of the prosecution witnesses in the trial. The trial Court is directed to take measure for speedy trial.

14. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-