

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 725 of 2020**

Shamser Ali S/o Karim Ali Aged About 45 Years R/o Khaprabhattha, Budhwari Bazar, Korba, Tahsil and District Korba Chhattisgarh. --- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer, Police Station- Adim Jati Kalyan Thana, Korba, District Korba Chhattisgarh. --- **Respondent**

For the Petitioner : Mr. Awadh Tripathi, Advocate
For Respondent/ State : Mrs. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****14.02.2020**

1. This is third bail application filed u/s 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.9/2018 rejected at Police Station Adim Jati Kalyan Thana Korba (C.G) for the offence punishable under sections 376, 506, 384 of IPC, section 4 & 6 of the protection of Children from Sexual Offences Act and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. The first bail application was dismissed on 17.09.2018 on merits and the second bail application was dismissed on 17.01.2020 for want of prosecution.
3. As per the prosecution case, a report was made by the prosecutrix that while she was minor the present applicant forcibly committed rape and the said act was captured in a mobile video and on the pretext that the said video would be made viral, the applicant further committed sexual intercourse by extending threat and also demanded money, thereby the offence has been committed.

4. Learned counsel for the petitioner submits that as per the information received, the prosecutrix has been examined and prays for time to place the statement on record.
5. Considering the fact that the prosecutrix has already been examined, it would not be appropriate for this Court to evaluate such evidence while hearing the bail as it will affect the merit of the main case. Since the prosecution has already been examined in this case, it is for the trial Court to evaluate such statement along-with other evidence and give a finding thereof. Therefore, at this stage, I do not find any reason to further give a finding as to the admissibility of such statement by usurping the power of the trial Court.
6. Accordingly, this bail application is dismissed.

Sd/-
(GOUTAM BHADURI)
JUDGE