

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1320 of 2020**

- Motilal @ Bocha @ Boya Sonwani S/o Shri Bandu Ram Sonwani Aged About 31 Years Occupation Labour, R/o Village Ghugharikala, Police Station Kusmi, District Balrampur-Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Applicant**Versus**

- The State Of Chhattisgarh Through The Officer In Charge Of Police Station Kusmi, District Balrampur-Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Non-applicant

For Applicant : Shri Roop Naik, Advocate.

For Non-applicant : Shri Ravi Maheshwari, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****26.02.2020**

1. 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.
2. Earlier, the first bail application of the applicant has been rejected by this Court on 26.02.2019 in MCRC No. 1079 of 2019 considering the prima facie case against him.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 107/2018 registered at Police Station – Kusmi, District – Balrampur Ramanujganj (C.G.) for the offence punishable under Sections 376, 506 of the Indian Penal Code.
4. Case of the prosecution, in brief is that on 29.08.2018 the prosecutrix was aged about 32 years. She is a resident of village Ghugharikala. On 29.08.2018 at about 10:11 am in the forest, the applicant committed forcible sexual intercourse with her and gave threat to kill her. She has not stated anyone about the incident due to blush. On 02.10.2018 he again followed her then she lodged a report in the police station Kusmi on 06.10.2018.
5. Counsel for the applicant argued that the applicant is in jail since 08.10.2018, out of 16 witnesses only 6 witnesses have been examined, he

further submitted that there was a love affair between the applicant and prosecutrix, he drew my attention on para 14 and 15 of the certified copy of the statement of P.W. 3 prosecutrix and para 10 of the certified copy of the statement of P.W. 4 Jekan Sonwani (which are part of the bail petition), hence, he may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application, however submits that there is no criminal antecedent against the applicant in the case diary.

7. It is true that the detention period of the accused and delay in trial are material factors for disposal of the bail application but equally it is also true that seriousness of the offence, impact of granting bail on society are more important factors.

8. It is well settled legal position that while dealing with the bail application this Court can neither scrutinize the evidence nor appreciate the evidence. Moreover, in the case in hand P.W. 3 prosecutrix has told against the applicant in para 2 during the examination in chief.

9. It is also well settled legal position that while dealing with the bail application Court cannot touch the merits and demerits of the case.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case to enlarge the applicant on bail in second round of litigation, consequently, the present bail application is rejected.

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

12. If the trial is not concluded within six months from today, applicant may revive the bail application.

Sd/-

(Sharad Kumar Gupta)
JUDGE