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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1664 of 2020**

- Ganesh S/o Lalluram Nayak Aged About 20 Years R/o Tikripara, Polmi, Police Station Kukdur, District Kabirdham, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Kukdur, District Kabirdham, Chhattisgarh

.....Non-applicant

For the Applicant	:	Shri Dharmesh Shrivastava, Adv.
For Non Applicant	:	Shri D.C. Verma, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order on Board****31-8-2020**

1. This is 2nd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. His no other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 16-4-2019 passed in MCRC No. 1686/2019 considering prima facie case against him.
3. The applicant has been arrested in connection with Crime No. 114/2018 registered in police station Kukdur, Distt. Kabirdham (CG) for offence punishable under Section 363, 376 of IPC, Section 4 of POCSO Act and Section 3(2)(v) of the SC,ST (Prevention of Atrocities) Act.
4. Case of the prosecution, in brief, is that on 9-12-2018 prosecutrix was below 15 years of age. She is resident of village Polmi. She is member of Scheduled Tribe. On 9-12-2018 applicant took her, forcibly got sat on his motorcycle and committed forcible sexual intercourse at forest of village Polmi, and threatened to kill her.
5. Counsel for the applicant submits that in the case in hand, new development is that P.W. 6 Dr. Prasangita Prasad and P.W. 7 Dr. Keshav Jaiswal were examined by the trial Court and looking to their statements no case is made out against the applicant. He drew my

attention on Annexure A-3 which is part of the bail application.

6. On the other hand, counsel for the State opposed the bail application. He submitted that no criminal antecedent has been reported against the applicant in the police case diary.
7. Earlier on 17-8-2020 informant Smt. Dukalhin Bai appeared before this Court through Help Desk and she stated that the applicant may not be released on bail.
8. This is well settled legal position that while deciding bail application this Court can neither scrutinize nor appreciate the evidence. It is only the trial Court which is competent to do it at the time of appreciation of evidence.
9. Looking to the above facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in 2nd round of litigation.
10. Consequently, this 2nd bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge