

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2225 of 2020**

- Suraj Bhagat, S/o Chhote Lal Bhagat, Aged About 21 Years R/o Village Taraimal, Police Station- Punjipathara, Tahsil- Tamnar, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station- Punjipathara, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Manoj Kumar Jaiswal, Advocate.
For Respondent/State	:	Mr. Rahul Jha, G. A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****11.08.2020**

1. On 17.06.2020, a notice was sent to the complainant/informant for his appearance before this Court but the notice has returned unserved.
2. The accused/applicant has moved this **Second bail application** under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 138/2019 registered at Police Station – Punjipathara, District Raigarh, (C.G.) for the offence punishable under Sections 363, 366 & 376 of IPC, Sections 4 & 6 of POCSO Act. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after examination of the prosecutrix on 17.01.2020 passed in MCRC No. 6076/2019.
3. The allegation against the applicant, as per the prosecution case, is that, on 05.08.2019, the applicant kidnapped the prosecutrix and committed sexual intercourse with her. Based on that, after investigation, offence has been registered and he has been arrested.
4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further

submits that learned trial Court has issued notice to the prosecutrix but the notice has not been served as the complainant is not residing at the given address. He further submits that the prosecutrix has not made any allegation of rape against the applicant. Learned counsel further added that the applicant is in jail since 29.11.2019 and he is ready to furnish adequate surety and shall abide by all the conditions and directions, which may be imposed by this court, therefore, the present applicant may be released on bail.

5. Per contra, State counsel opposes the bail application.
6. I have heard learned counsel for the parties and perused the case diary.
7. Looking to the order-sheet of the trial Court, it is clear that prosecutrix has not been appearing before the trial Court though notices have been sent several times by the trial Court. This Court has also served notice to the informant on 17.06.2020 and it has returned unserved with a note that the informant is not residing at the given address.
8. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, as the applicant is in jail since 29.11.2019, the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
9. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the said Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**

Ruchi