

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2966 of 2020**

- Banti @ Sagar Rajak S/o Santosh Rajak Aged About 20 Years R/o Kududand, Near Gayatri Mandir, Bilaspur Police Station Civil Line, And District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Civil And Revenue District Bilaspur Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Nitansh Kumar Jaiswal, Advocate
For Non Applicant	:	Mr. D.C. Verma, G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****07.08.2020**

1. Allegedly informant- Rajesh Gidwani is present in Help Desk. After putting some questions through VC, this Court is convinced that the person, who is present in Help Desk, is informant Rajesh Gidwani.
2. This is third 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.
3. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 02.05.2019 passed in MCRC No.403 of 2019 considering prima facie case against him, his second bail application was also rejected by this Court vide order dated 05.11.2019 passed in MCRC No.6282 of 2019 considering prima facie case against him.
4. Perused the case diary provided by the learned counsel for the State in connection with Crime No.870/2018 registered at Police Station- Civil Line, District- Bilaspur (C.G.) for the offence punishable under Sections 363, 366, 376, 212 of Indian Penal Code and Section 4 POCSO Act.
5. Case of the prosecution, in brief is that on 06.10.2018 prosecutrix was below 14 years of age. She is resident of Sindhi Colony, Bilaspur. On 06.10.2018, applicant took her and committed sexual intercourse with her,

though nothing was done forcibly with her.

6. Counsel for the applicant submitted that in the case in hand, prosecutrix was examined in trial Court and turned hostile. There are contradictions in her Court statement, he drew my attention on Annexure A-4, applicant is in jail since 08.10.2018.
7. On the other hand, learned counsel for the State opposed the bail application, however, submitted that there is no criminal antecedent against the applicant in police case diary.
8. Informant- Rajesh Gidwani submitted that applicant may be released on bail.
9. From the certified copy of the statement of the prosecutrix which is the part of the bail application it cannot be said that she has totally turned hostile. She had stated against the applicant during the examination-in- chief.
10. This is true that delay in trial and detention period of the accused are material factors for disposal of the bail application filed by the accused. But equally it is also true that seriousness of the offence and impact of granting bail to the accused on society are more material and important factors for disposal of the bail application filed by the accused.
11. This is also well settled legal position that while dealing the bail application Court neither can scrutinize the evidence nor appreciate the same, it is only the trial Court who can do so at the time of appreciation of the evidence.
12. Looking to the above mentioned 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 third round of litigation. Consequently, his third bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

parul