

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3226 of 2020**

Ajay Singh Rajput S/o Shyam Singh Aged About 26 Years R/o Village Ghoramar, Ps Kota, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh .

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station - Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Gary Mukhopadhyay, Advocate
For the State	:	Shri D.K. Tiwari, Dy. Govt. Advocate
For the informant	:	Shri Vipin Singh, Advocate with Smt. Sheikh Mehrunnisa

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**21/07/2020**

1. Heard.
2. Case diary is available.
3. This is the third bail application under Section 439 of the CrPC.
4. Earlier first bail application of the applicant was rejected by this Court vide order dated 15/01/2019 passed in MCRC No.9687/2018 considering *prima facie* case against him. His second bail application was rejected by this Court vide order dated 26/08/2019 passed in MCRC No. 4060/2019 considering *prima facie* case against him.
5. Perused the case diary in connection with the Crime No.386/2018 registered at Police Station Sarkanda, Bilaspur, District Bilaspur (C.G.) for the offence punishable under Section 376 of IPC and Section 4 & 6 of POCSO Act.
6. Case of the prosecution, in brief is that the age of the prosecutrix was below 11 years at the time of alleged incident. She is a resident of village Vivekanand Nagar, Bilaspur. On 19.09.2015 at night, the applicant, who was a driver of family of prosecutrix, took her on the roof of her house, pressed her mouth and committed forcible sexual intercourse with her.
7. Counsel for the applicant submitted that in the case in hand after rejection of the second bail application prosecutrix was examined in the trial Court she turned hostile and did not support the prosecution case, hence applicant may be released on bail
8. On the other hand, counsel for the State opposes the bail application. He further submitted that while dealing the bail application Court cannot scrutinize the evidence.
9. Counsel for the informant Shri Vipin Singh submitted that he has no

objection on granting bail to the applicant.

10. As per para No. 11, 13 and 14 of the statement of certified copy of PW-2 prosecutrix which is part of the bail application she stated that applicant had not committed any wrong act with her, he had not committed sexual intercourse with her, this is true that she had not stated her Badi Mummy and Muskan Khala that applicant had committed sexual intercourse with her, she had stated the facts in her police statement on saying of Manu Didi. These grounds are sufficient to enlarge the applicant on bail in third round of litigation.
11. Consequently, third bail application of the applicant is allowed and it is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 50,000/- along with one personal bond of Rs. 50,000/- to the satisfaction of the Court concerned, with the condition that he shall appear before the Court concerned at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde