

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3230 of 2020**

- Nanduram Dewangan @ Chotu S/o Shri Ankaluram Dewangan Aged About 24 Years R/o Post Bori, P.S. Lalbagh, District - Rajnandgaon, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through:- Out Post Padamnadhpur, Police Station Durg, Tehsil And District- Durg, Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Shashi Bhusan Tiwari, Advocate
For Non Applicant	:	Mr. D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****25.06.2020**

1. Heard.
2. Admit.
3. 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.
4. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 13.02.2019 passed in MCRC No.644 of 2019 considering prima facie case against him.
5. Perused the case diary provided by the learned counsel for the State in connection with Crime No.777/2018 registered at Out Post Padmanabhpur Police Station- Durg, Tehsil and District Durg (C.G.) for the offence punishable under Sections 376, 506(B), 385 of the IPC and 66 IT Act, Section 5 (a) and 6 of the POCSO Act.
6. Case of the prosecution, in brief is that on 21.05.2017 prosecutrix was more than 16 years of age. She and applicant were knowing each other. On 21.08.2017 in the night she opened the door of the house after knocking of applicant. He had given some liquid to drink. She became unconscious.

Taking advantage of her unconsciousness he committed sexual intercourse with her. He had also made the video which was not in her notice. Thereafter, he had repeatedly committed sexual intercourse with her on the threats that he will viral the video.

7. Counsel for the applicant argued that in the case in hand FIR is delayed by one year, out of 15 only 2 prosecution witnesses have been examined by now. After rejection of first bail application only one prosecution witness has been examined. Prosecutrix is an educated girl. In present scenario the early conclusion of trial is not probable. Hence, applicant may be released on bail. He further drew my attention on Para 44 of the certified copy of statement of P.W.1 prosecutrix which is the part of the bail application.
8. On the other hand, learned counsel for the State opposed the bail application, however, submitted that there is no criminal antecedent reported against the applicant in the police case diary.
9. 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.
10. 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.
11. While dealing the first bail application of the applicant this Court has dealt the matter of delay in lodging FIR in Para 6 of the said order. Moreover, delay in FIR is itself not a sufficient ground to release the accused on bail.
12. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no such material change in circumstances which may entitle the applicant to be released on bail in second round of litigation. Consequently, his second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

parul