

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3676 of 2020**

Gourav Singh S/o Late Shri Rameshwar Singh Aged About 36 Years
R/o Aayudh Nirman Colony Katni, Police Station Madhav Nagar, Tahsil
Madhav Nagar, District- Katni, Madhya Pradesh

---- Applicant

Versus

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

.....Non-applicant

For the Applicant : Shri Pushpendra Singh Baghel, Advocate

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

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

10-7-2020

1. This is 5th 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 13-3-2019 passed in MCRC No. 1426/2019 considering prima facie case against him. His second bail application was rejected by this Court vide order dated 16-5-2019 passed in MCRC No. 3094/2019 considering prima facie case against him. His third bail application was rejected by this Court vide order dated 5-9-2019 passed in MCRC No. 5421/2019 considering prima facie case against him. His 4th bail application was rejected by this Court vide order dated 2-1-2020 passed in MCRC No. 8128/2019 considering prima facie case against him.
3. The applicant has been arrested in connection with Crime No. 38/2019 registered in police station Sakri, Bilaspur (CG) for offence punishable under Section 376, 384, 509(b) of IPC.
4. Prosecution story in brief is that prosecutrix is aged about 40 years

and a resident of Uslapur, Bilaspur. She is a member of Scheduled Tribe. Applicant is neither member of Scheduled Caste nor Scheduled Tribe. He introduced himself as Hemant Toppo to the Prosecutrix. He repeatedly committed sexual intercourse with her on pretext of marriage. Later, he disclosed before the prosecutrix that actually his name is Gourav Singh. Later on, she came to know that he is already married man. Thereafter she refused to continue physical relationship with him. He threatened her that he will viral her intimate photographs and demanded Rs. 10 lacs from her. Thereafter she lodged an FIR against him.

5. Counsel for the applicant submits that the mother of the applicant is an old lady and suffering from neurological disease. He drew my attention on Annexure A-6 which is part of the bail application. Father of the applicant has died. He drew my attention on Annexure A-7 which is part of the bail application. The applicant is the sole bread earner of his family. The applicant is in jail since long. The prosecutrix did not support the prosecution case during examination in the Court. Prosecutrix is 40 years old whereas the applicant is younger than her. Hence the applicant may be released on bail.
6. On the other hand, counsel for the State opposes the bail application and submits that no criminal antecedent has been shown in the case diary against the applicant.
7. This is true that period of detention of the accused and delay in trial are the material factors for disposal of bail application of accused but it is also equally true that seriousness of the offence and impact of grant of bail to the accused on society are more important and material factors for disposal of the bail application filed by the accused.
8. This is also 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. This is also well settled legal position that while deciding bail application, this Court cannot touch merits and demerits of the case.
9. In the present scenario the trial Court can not be held responsible for

delay in trial.

10. 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 5th round of litigation.

11. Consequently, this 5th bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Pathak