

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4250 of 2020**

- Chukeshwar @ Chutu Gayakwaad S/o Rajulal Gayakwaad, Aged About 22 Years R/o. Village Kachandur, Police Station Gunderdhi, District Balod Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Gunderdhi, District Balod Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Ganesh Ram Burman, Advocate
For Non Applicant	:	Mr. D.K. Tiwari, Dy G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22.07.2020**

1. 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.
2. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 20.06.2019 passed in MCRC No.3678 of 2019 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with crime No. 108/2019 registered at Police Station – Gunderdehi, District Balod (C.G.) for the offence punishable under Sections 365, 342, 376 of the Indian Penal Code.
4. Case of the prosecution, in brief is that prosecutrix is about 20 years old. She is resident of village Kachandur. On 19.03.2019 at about 6:30 hours applicant forcibly put her in vehicle No.CG08K0750. Near Sanskar City School, Rajnandgoan applicant Chukeshwar dropped co-accused Chhatrapal and Bundelal. Applicant Chukeshwar @ Chutu Gayakwaad took her in the house of his elder mother at village Kachandur and committed forcible sexual intercourse with her.
5. Counsel for the applicant submitted that there was a love affair between the prosecutrix and applicant. There were 50 to 100 students present at the

place of occurrence she did not shout for help. She voluntarily went to the house of applicant, thereafter under the pressure of family members she lodged the report against the applicant. Applicant is in jail since 20.03.2019. The possibility cannot be ruled out that trial would not conclude soon. Hence, applicant may be released on bail.

6. On the other hand, learned counsel for the State opposed the bail application, however, submitted that there is no criminal antecedent against the applicant is reported in the police case diary.
7. 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.
8. 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.
9. Looking to the present scenario it cannot be held that trial Court is responsible for delay in trial.
10. 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 second round of litigation. Consequently, his second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

parul