

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No.3914 of 2020**

Babulal S/o Ramdev, aged about 20 years, R/o Village Puhputra, Police Station Darima, District Surguja(CG).

**---- Applicant****Versus**

State of Chhattisgarh, through Station House Officer, Police Station AJAK (Darima), District Surguja (CG).

**---- Non-applicant**


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| For Applicant     | : Mr. Jitendra Shrivastava, Advocate |
| For Non-applicant | : Mr. D.K. Tiwari, Dy.G.A.           |

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**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****21.07.2020**

1. Counsel for the applicant submitted that he does not want to press I.A. No.1/2020 application for grant of ad-interim bail.
2. I.A. No.1/2020 is rejected as not pressed by the counsel for the applicant.
3. This is fourth bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court in connection with Crime No.53/2019 registered at Police Station AJAK (Darima), Ambikapur (Surguja) for the offence punishable under Sections 366, 323, 506, 376(2)(n), 114 of the Indian Penal Code and Section 3(1)(द) (घ) & 3 (2) (v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The first bail application of the applicant was rejected on merits by this Court vide order dated 30.07.2019 passed in M.Cr.C. No.4095/2019 considering prima facie case against him. His second bail application was dismissed as withdrawn with liberty by this Court vide order dated 25.09.2019 passed in M.Cr.C. No.6039/2019. His third bail application was rejected by this Court vide order dated 23.03.2020 passed in M.Cr.C. No.373/2020 considering prima facie case against him.
5. Case of the prosecution, in brief, is that on 07.04.2019 the prosecutrix was aged about 18 years. She is a member of Scheduled Tribe. She is a resident of village Turra Awaradand. The applicant is neither the member of Scheduled Caste nor Scheduled Tribe. On 07.04.2019 at about 6:00 p.m., the applicant

and co-accused Ritesh Rajwade, Santosh Singh & Vikash Singh took her forcefully towards forest, they abused her on the caste basis and, thereafter, co-accused Ritesh Rajwade and applicant took her forcefully by motor cycle in the house of applicant. Co-accused Ritesh Rajwade committed sexual intercourse with her.

6. Counsel for the applicant submitted that the applicant is in jail since 01.04.2019, there is no possibility of absconding of him, the rape was committed by co-accused Ritesh Rajwade, who has already bailed out by the trial Court, co-accused Vikash Singh and Santosh Singh have bailed out by the co-ordinate bench of this Court, hence the applicant may also be released on bail.

7. On the other hand, counsel for the State opposed the bail application. However, he submitted that no criminal antecedent has been reported against the applicant as per police case diary.

8. This is true that detention period of the accused is a material factor 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 is more material and important factor for disposal of the bail application filed by the accused. This Court has already dealt in para No.5 of order dated 23.03.2020 this aspect that why the principle of parity is not applicable in favour of the applicant despite of this fact that co-accused Vikash Singh and Santosh Singh have been bailed out by the co-ordinate Bench of this Court.

9. As per annexed photocopy of order dated 14.06.2019 passed by Member of Juvenile Justice Board, Ambikapur, Surguja, co-accused Ritesh Rajwade was bailed out on the ground that he was a juvenile, hence, the case of the applicant is different from co-accused Ritesh Rajwade and principle of parity is not applicable in favour of the applicant.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no material change in the circumstances of the case which may entitle the applicant to release on bail in the fourth round of litigation. Consequently, his fourth bail application is rejected.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)  
**JUDGE**