

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4146 of 2020**

Manish Verma S/o Late Mahesh Verma Aged About 22 Years R/o Borsi,
Police Station Berla, District Bemetara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate, District Durg,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sumit Singh Rathore, Advocate
For the State	:	Shri D.K. Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**22/07/2020**

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 29/04/2019 passed in MCRC No.2615/2019 considering *prima facie* case against him. His second bail application was rejected by this Court vide order dated 19/11/2019 passed in MCRC No. 7247/2019 considering *prima facie* case against him.
5. Perused the case diary in connection with the Crime No.478/2018 registered at Police Station Dharsiva, District Raipur (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 6 of POCSO Act.
6. Case of the prosecution, in brief is that on 05.11.2018 the prosecutrix was more than 17 years of age. She is resident of village Teeraiya. On 05.11.2018 in the night, the applicant took her by pressing her mouth and performed the marriage with her. He committed repeatedly sexual intercourse with her.
7. Counsel for the applicant submitted that PW-7 prosecutrix has been examined in trial Court and she stated in para 1 that her date of birth is 01/06/2000, hence at the time of alleged incident she was more than 18 years of age, applicant is in jail since 1½ years, he drew my attention on para No. 1, 12, 13, 14 and 15 of photocopy of statement of PW-7 prosecutrix, which is part of the bail application. He further submitted that PW-3 Dr. Manju Tirkey did not find any injury on body of prosecutrix, she opined that prosecutrix was habitual for sexual intercourse. He drew my attention on para 4 and 5 of photocopy of statement of PW-3 Dr. Manju Tirkey. Finally he urged that applicant may be released on bail
8. On the other hand, counsel for the State opposes the bail application. He further submitted that previously no criminal antecedent is reported against the applicant in police case diary.

9. It is true that detention period of the accused is material factor for disposal of the bail application of 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. It is well settled legal position that while deciding the bail application Court can neither scrutinize the evidence nor appreciate the evidence only trial Court can do so at the time of appreciation of evidence.
11. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no such material change in the circumstances which may entitle applicant to enlarge on bail in third round of litigation. Consequently, third bail application of applicant is rejected. However, trial Court is directed to expedite the trial after resuming the regular work.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde