

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4150 of 2020**

- Gajju @ Gajanand Tiwari S/o Ramashankar Tiwari, Aged About 28 Years R/o Model Town, Near Gayatri Kirana Store, Bhilai, P.S. Supela, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Supela, District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Non-applicant

For Applicant : Shri Anand Shukla, Advocate.

For Non-applicant : Shri D.C. Verma, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****04.08.2020**

1. This is third 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 has been rejected by this Court on 05.12.2018 passed in MCRC No. 8731 of 2018 considering the prima facie case against him and his second bail application has been rejected by this Court on 06.11.2019 passed in MCRC No. 5687 of 2019 considering the prima facie case against him.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 763/2018 registered at Police Station – Supela, District – Durg (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Section 5 and 6 of the POCSO Act.
4. Case of the prosecution, in brief is that prosecutrix is aged about 8 years. She is resident of Modern Town, Nehru Nagar, Bhilai. On 21.08.2018 in the evening applicant kissed on her cheeks, private parts and entered his

fingers on her private part.

5. Learned counsel for the applicant submitted that the applicant is in jail since 24.08.2018, till date only seven witnesses have been examined. Looking to the present scenario it does not appear that the trial could be concluded soon. Hence, the applicant may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application, however submits that there is no criminal antecedent against the applicant in the case diary.

7. This is true that the detention period of the accused and delay in trial are considerable 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 important and material factors for the disposal of the bail application filed by the accused.

8. In the present scenario it cannot be held that the trial Court is responsible for delay in trial.

9. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case to release the applicant on bail in third round of litigation, consequently, the present bail application is rejected. However, the trial Court is directed that after resuming the regular functioning of the Court, expedite the trial and dispose off the case as soon as possible.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE