

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4495 of 2020**

Karan Yadav, S/o Shri Dinesh Yadav, aged about 19 years, R/o Village Ghutaku, Mahamaya Para, Police Station Koni, District Bilaspur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Sarkanda, District Bilaspur (CG).

---- Non-applicant

For Applicant	: Mr. Vikrant Pillai, Advocate
For Non-applicant	: Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****15.10.2020**

1. Allegedly Informant Smt. Shobha Yadav appeared before this Court through Video Conferencing. After putting some inquiries from her, this Court satisfied that the woman, who is present in the Video Conferencing is the informant.
2. This is third bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
3. Perused the case diary provided by the counsel for the State in connection with Crime No.446/2018 registered at Police Station Sarkanda, Bilaspur for the offence punishable under Sections 363, 366 & 376 of Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
4. The first bail application of the applicant was dismissed in default for want of prosecution by this Court vide order dated 25.03.2019 passed in M.Cr.C.1051/2019. His second bail application was rejected on merits by this Court vide order dated 04.09.2019 passed in M.Cr.C. No.4720/2019 considering prima facie case against him.
5. Case of the prosecution, in brief, is that on 19.06.2018 the prosecutrix was below 14 years of age. She is resident of Jabrapara, Bilaspur. On 19.06.2018 the applicant took her in his house and committed repeatedly sexual intercourse with her on the pretext of marriage. He kept her in his house for three months.
6. Counsel for the applicant submitted that the applicant is in jail since 27.09.2018. Out of 14 prosecution witnesses, only 03 prosecution

witnesses have been examined before the trial Court till now. Due to situation arose from COVID-19, early trial is not possible. He drew my attention on para No.10 of the certified copy of statement of prosecutrix (P.W.9). He further submitted that the applicant may be released on bail.

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

8. On asking from the informant, she replied that she has no objection for releasing the applicant on bail.

9. This is true that the detention period of the accused and delay in trial are material factors for disposal of the bail application. But equally, it is also true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors for disposal of the bail application.

10. This is well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court, who can do so at the time of appreciation of the evidence.

11. Moreover, in the case in hand, prosecutrix (P.W.9) stated against the applicant in para No.3 during her examination in chief.

12. Looking to the present scenario, it cannot be held that trial Court is responsible for delay in trial.

13. Looking to the above mentioned facts and circumstances of the case, looking to this fact that at the time of alleged incident, the prosecutrix was below 14 years of age, this Court finds that this is not a fit case where the applicant be released on bail in the third round of litigation. Consequently, his third bail application is rejected. However, the trial Court is directed to expedite the trial and dispose of case as soon as possible after resuming the regular work of Court.

14. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE