

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4840 of 2020**

Santosh Bargah S/o Late Lakhan Lal Bargah, Aged About 40 Years
R/o Karaihapara Ratanpur, Police Station - Ratanpur, District -
Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through - Station House Officer, Police Station
- Ratanpur, District Bilaspur Chhattisgarh. (Wrongly Mention District -
Rajnandgaon In Order Sheet), District : Bilaspur, Chhattisgarh .

---- Respondent

For the Applicant	:	Shri Awadh Tripathi, Advocate
For the State	:	Shri D.K. Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**29/09/2020**

1. Heard.
2. Case diary is available.
3. This is the third bail application under Section 439 of the CrPC.
4. A report received from the trial Court.
5. Earlier first bail application of the applicant was dismissed as withdrawn vide order dated 26/03/2019 passed in MCRC No. 1132/2019. His second bail application was also dismissed as withdrawn vide order dated 10/12/2019 passed in MCRC No. 7781/2019.
6. Perused the case diary in connection with the Crime No.18/2019 registered at Police Station Ratanpur, District Bilaspur (C.G.) for the offence punishable under Section 376 (G) and 323 of IPC.
7. Case of the prosecution, in brief is that prosecutrix is about 45 years old, she is resident of Karaiyapara Babughat. On 13/01/2019 about 8 - 9 p.m. she was returning back to her house. On the way applicant met her and took her forcibly under the Lakhmi Devi Temple and committed sexual intercourse with her and beaten her, he called his four companions. His one companion also committed sexual intercourse with her.
8. Counsel for the applicant submitted that applicant is in jail since 18/01/2019, prosecutrix is not appearing in trial Court for recording the evidence, there is no progress in trial due to Covid-19 situation, FIR is delayed by four days, despite of the direction of this Court given at the time of dealing of second bail application the trial is not concluded within six months, hence applicant may be released on bail
9. On the other hand, counsel for the State opposes the bail application.
10. This is well settled legal position that mere delay in FIR is not itself a

ground to enlarge the accused on bail. Trial Court vide request letter dated 09th September 2020 sought one month additional time to conclude the trial.

11. In present scenario it cannot be held that trial Court is responsible for delay in trial.
12. To secure the appearance of the prosecutrix applicant is free to pursue the matter before the trial Court.
13. Considering the totality of the fact, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the third bail application of the applicant is rejected, however the trial Court is directed to dispose of the case within a month after resuming the regular work of the Court.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde