

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4723 of 2020**

Kishor Kumar @ Chhotu S/o Mangal Bhardwaj Aged About 29 Years R/o Shyam Nagar, Thethwar Para, Camp-2, Bhilai, Police Station- Chawni, Tahsil And District - Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through, Station House Officer, Police Station-Chawni, District Durg Chhattisgarh.

---- Respondent

For the Applicant	:	Shri B.P. Singh and Shri Shikhar Bakhtiyar, Advocates
For the State	:	Shri D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**23/11/2020**

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 Earlier first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 29/01/2019 passed in MCRC No. 9094/2018. His second bail application was rejected by this Court vide order dated 24/09/2019 passed in MCRC No.4654/2019 considering prima facie case against him.
5. Perused the case diary in connection with the Crime No.518/2018 registered at Police Station Chawni, District Durg (C.G.) for the offence punishable under Sections 363, 376 (क) (ख) of IPC and Section 5 (ड) and 6 of POCSO Act.
6. Case of the prosecution, in brief is that prosecutrix is below 4 years of age. On 26/06/2018 at about 3 p.m. at Thethawarpara Camp-2, Bhilai, applicant took prosecutrix on pretext of the roaming to his house, removed her underwear and discharge the sperm on his private part.
7. Counsel for the applicant submitted that RFSL report did not support the prosecution case, applicant is in jail since 06/10/2018, hence applicant may be released on bail.

8. On the other hand, counsel for the State opposes the bail application. He further submits that two other criminal cases under IPC have been registered against the applicant in police case diary.
9. On 13/10/2020 informant submitted that applicant shall not be released on bail.
10. In the case in hand RFSL report is still awaited.
11. This is true that detention period of the accused and delay in trial are material factors for disposal of the bail application filed by the accused but equally it is also true that seriousness of the offence, impact of granting bail to accused on society are more important and material factors for disposal of the bail application filed by the accused.
12. This is well settled legal position that while deciding the bail application this 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 evidence.
13. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where applicant may release on bail in third round of litigation. Consequently, third bail application of the applicant is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge