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**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5508 of 2020**

- Ramchand Gandharva S/o Shri Fakirchand Gandharva, Aged About 40 Years R/o Ward No. 25, In Front Of Anil Press, Dallirajhara, Police Station Dallirajhara, District-Balod, Chhattisgarh,

---- Applicant

**Versus**

- State Of Chhattisgarh Through P.S.- Dallirajhara, Distirict Balod, Chhattisgarh,

.....Non-applicant

|                   |   |                               |
|-------------------|---|-------------------------------|
| For the Applicant | : | Shri Hemant Gupta, Adv.       |
| For Non Applicant | : | Shri Devesh Verma, Govt. Adv. |

**Hon'ble Shri Justice Sharad Kumar Gupta****ORAL Order****15-9-2020**

1. This is 3rd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. His no other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 2-9-2019 passed in MCRC No. 4410/2019 considering prima facie case against him. His second bail application was also rejected by this Court vide order dated 2-3-2020 passed in MCRC No. 1435/2020 considering prima facie case against him.
3. The applicant has been arrested in connection with Crime No. 127/2019 registered in police station Dallirajhara, Revenue and Civil District Balod (CG) for offence punishable under Section 450, 376, 506 of the IPC.
4. Case of the prosecution, in brief, is that prosecutrix is aged about 35 years. She is resident of village Rajhara. In the month of March, 2018 the applicant reached in her house holding sword, threatened her and committed sexual intercourse with her. She orally informed to the police station where the FIR was not lodged and a copy of information of non-cognizable offence was given to her, a meeting of community was also held, thereafter he repeatedly committed sexual intercourse with her.
5. A status report has been received from the Superintendent of Central Jail, Raipur.

6. Counsel for the applicant submits that the applicant is suffering from serious heart disease. Earlier a surgery was also undertaken on him, his immunity is week and he may not be in a position to face corona virus problem, alleged sexual intercourse were consensual. He drew my attention on para 5, 13, 14 and 20 of the photocopy of the statement of the prosecutrix.
7. On the other hand, counsel for the State opposed the bail application. He submitted that no criminal antecedent of the applicant has been reported in the police case diary.
8. This is true that period of detention of the accused and delay in trial are the material factors for disposal of bail application of accused but it is also equally true that seriousness of the offence and impact of grant of bail to the accused on society are more important and material factors for disposal of the bail application filed by the accused.
9. This is also well settled legal position that while deciding bail application this Court can neither scrutinize nor appreciate the evidence. It is only the trial Court which is competent to do it at the time of appreciation of evidence.
10. As per the status report filed by the Superintendent, Central Jail, Raipur, Coronary CT Angiography of the accused was conducted on 7-9-2020 and as per said report, no significant abnormality was seen.
11. Looking to the above facts and circumstances of the case and considering the totality of the facts, this Court finds that it is not a fit case where the applicant may be released on bail in 3rd round of litigation.
12. Consequently, this 3rd bail application is rejected.

**Sd/-**  
**(Sharad Kumar Gsupta)**  
Judge