

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7097 of 2020**

- Durgesh Kumar Nirmalkar S/o Rameshwar Nirmalkar Aged About 23 Years
R/o Village Ghursena, P. S. Nandghat, District Bemetara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. Nandghat, District Bemetara Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. B. L. Dembra, Advocate
For Non Applicant	:	Mr. D. C. Verma, G. A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****10.12.2020**

1. Allegedly Informant Smt. Lalita Bai is present in person. After putting some questions, this Court is satisfied that the woman who is present before this Court is informant.
2. 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.
3. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 03.04.2019 passed in MCRC No.226 of 2019 considering prima facie case against him, his second bail application was dismissed as withdrawn by this Court vide order dated 24.07.2019 passed in MCRC No.4333 of 2019.
4. Perused the case diary provided by the learned counsel for the State in connection with Crime No.88/2018 registered at Police Station-Nandghat, District- Bemetara (C.G.) for the offence punishable under Sections 363, 366, 376 of I.P.C. and Section 5(३), 6 of the Prevention of Children from Sexual Offences Act.
5. Case of the prosecution in brief is that on 27.02.2018 prosecutrix was below 16 years of age. She is resident of village Ghursena. There was love affair between her and applicant. On 27.02.2018 he took her by enticing on

pretext of marriage in Banjari Temple. He put vermilion on her forehead, they performed marriage after exchange of garland, thereafter he committed repeated sexual intercourse with her.

6. Counsel for the applicant submitted that applicant is in jail since 09.04.2018 this Court had directed the trial Court while passing the order dated 24.07.2019 to expedite the trial and dispose of the case as soon as possible preferably within 3 months but yet trial is not concluded. Hence, applicant may be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application, however, he submits that there is no criminal antecedent against the applicant is reported in police case diary.
8. Informant Smt. Lalita Bai submitted that applicant may release on bail, she has no objection.
9. This is true that delay in trial and detention period of the accused are material 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 material and important factors for disposal of the bail application filed by the accused.
10. In present scenario it cannot be held that trial Court is responsible for delay in trial.
11. Looking to the above mentioned facts and circumstances of the case, looking to this fact that at the time of alleged incident prosecutrix was below 16 years of age, this Court finds that this is not a fit case where the applicant may be released on bail in third round of litigation. Consequently, the third bail application is rejected.
12. However, trial Court is directed to expedite the trial and dispose of the case as soon as possible preferably within 3 months from the date of receipt of copy of this order.

Sd/-
(Sharad Kumar Gupta)
Judge

parul