

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7502 of 2020**

- Hemant Kurrey So Shri Dhebalal Aged About 18 Years R/o Village Kuraili Post Sagar, Police Station Hirri, Tahsil Takhatpur, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Hirri, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant : Shri Amit Kumar, Advocate.

For Non-applicant : Shri Raghvendra Verma, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****25.11.2020**

1. The alleged informant Smt. Santoshi Singh, mother of the prosecutrix is present in person.
2. After putting some questions, this Court is satisfied that the lady who is present before this Court is the informant.
3. 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.
4. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 18.06.2019 passed in MCRC No. 3271 of 2019 considering prima face case against him and his second bail application was rejected by this Court on 03.02.2020 in MCRC No. 6021 of 2019 considering the prima facie case against him.
5. Perused the Case Diary provided by the learned counsel for the State in

connection with crime No. 41/2019 registered at Police Station – Hirri, District - Bilaspur (C.G.) for the offence punishable under Section 363, 366, 376, 342 of I.P.C. and Section 5(ॢ)/6 of the Protection of Children from Sexual Offences Act.

6. Case of the prosecution, in brief is that on 21/02/2019 prosecutrix was below 15 years of age. She is resident of village Kuraili. On 21.02.2019 applicant took her by pulling in his house and committed sexual intercourse with her saying that he will marry her.
7. Learned counsel for the applicant argued that there is delay in trial. P.W.2 Santoshi Singh, the mother of the prosecutrix had stated in para – 3 that allegedly applicant attempted to commit wrong act, hence, he may be released on bail.
8. On the other hand, learned counsel for the State opposes the bail application, however, submits that no criminal antecedent has been reported against the applicant in the police case diary.
9. Informant – Santoshi Devi submits that applicant may be released on bail.
10. This is true that the detention period of the accused and delay in trial are considerable 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 important and material factors for the disposal of the bail application filed by the accused.
11. As per the photocopy of the statement of the P.W.2 Santoshi Singh, which is part of the bail application, she has stated against the applicant in para 9.
12. This is well settled legal position that while dealing with the bail application this Court can neither scrutinize the evidence nor appreciate

the same. It is only the trial Court who can do so at the time of appreciation of the evidence.

13. Considering the totality of the facts, looking to the fact that at the time of alleged incident the Prosecutrix was below 15 years of age, this Court is of the opinion that this is not a fit case where the applicant may be released on bail in third round of litigation, consequently, this bail application is rejected. However, the trial Court is directed to expedite the trial and dispose off the case as soon as possible.

14. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE