

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8093 of 2019**

- Santosh Gadpayle S/o Amar Das Gadpayle Aged About 41 Years R/o Motipur, Ambedkar Chauk, Rajnandgaon, Police Station Kotwali, District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Lalbagh, District - Rajnandgaon Chhattisgarh

---- Non Applicant

For the Applicant : Shri Punit Ruparel, Advocate

For Non Applicant : Shri Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****10.01.2020**

1. Informant- Gomti Sahu is absent though notice served upon her.
2. This is second 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 25.04.2019 passed in MCRC No.925 of 2019.
4. Perused the case diary provided by the learned counsel for the State in connection with Crime No.356/2018 registered at Police Station- Lalbagh, District- Rajnandgaon(C.G.) for the offence punishable under Sections 376 of the Indian Penal Code & Section 4 of POCSO Act.
5. Case of the prosecution, in brief is that on 18.09.2018 prosecutrix was about below 8 years of age. She is resident of village Sukuldaihanm. Applicant is the teacher of a Government school. On 18.09.2018 between 10:00 hours to 16:00 hours, applicant who is the teacher, committed rape with prosecutrix.
6. Counsel for the applicant submits that prosecutrix and her elder sister were examined by the trial Court they did not support the prosecution case and turned hostile. Hence applicant may be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against

the applicant.

8. As per the certified copy of the statement of P.W.-5 prosecutrix, she has stated in Para 2 during the examination in chief that applicant had not committed any wrong act with her. She and her elder sister P.W.-10 Yashoda Sahu did not support the prosecution case and turned hostile. These circumstances are sufficient to enlarge the applicant on bail in second round of litigation.
9. Consequently, the second bail application of applicant is allowed and it is directed that if applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond of Rs.25,000/- to the satisfaction of the concerned Court with the condition that he will appear before the trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he be released on bail.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul