

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 8236 of 2019

- Lavkumar Yadav @ Golu S/o Shriram Yadav Aged About 28 Years R/o Sivpara, Police Station - Durg, Tahsil And District - Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Of Police Station - Durg, District - Durg Chhattisgarh.

---- Respondent

For applicant	Mr. Tarun Dansena, Adv.
For Respondent/State	Mr. Suyash Dhar, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****2-1-2020**

1. This is 3rd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His 1st bail application MCRC No. 1503/2019 was rejected by this Court vide order dated 2-4-2019 considering prima facie case against the applicant. His 2nd bail application MCRC No. 6291/2019 was rejected by this Court vide order dated 6-11-2019 considering prima facie case against him.

2. The applicant has been arrested in connection with Crime No. 787/2018 registered in police station Durg (CG) for offence punishable under Section 376 of IPC.

3. Prosecution story in brief is that prosecutrix is about 24 years old. She is resident of Shivpara Tulsi Chowk, Durg. She is deaf and dumb. During 20-3-2018 to 30-4-2018 some person committed forcible sexual intercourse with her. During the test identification parade she identified the applicant.

4. Counsel for the applicant submits that now the prosecutrix has been examined in trial and she did not state against the applicant. Thus, he may be released on bail. He drew my attention in para 1 and 5 of the certified copy of the statement of the prosecutrix P.W. 2 which is

part of the bail application.

5. On the other hand, counsel for the State opposed the bail applicant however he submits that no criminal antecedent has been reported in the police case diary against the applicant.

6. As per certified copy of the statement of P.W. 2 prosecutrix she did not identify the applicant as a culprit. In para 5 she states by gesture that the applicant has not committed the incident with her. These circumstances are sufficient to enlarge the applicant on bail in 3rd round of litigation.

7. Looking to the above facts and circumstances of the case, looking to the facts that there is no likelihood of the accused to abscond and tamper the evidence, trial will take its own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant. Consequently, the application is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned with the condition that he will appear before the concerned trial Court at 11 AM as and when directed till trial, he be released on bail.

8. CC as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge