

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8430 of 2019**

- Radheshyam Kewat S/o Dayaram Kewat Aged About 35 Years R/o Village Gidhauri Kewatpara, Ratanpur, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Ratanpur, Civil And Revenue District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant. : Mr. Pradeep Kumar Jogi, Advocate.
 For Respondent/State : Mr. B.L.Sahu, PL

Hon'ble Smt. Justice Rajani Dubey**Order on Board****05.03.2020**

1. On 10.02.2020, a notice was sent to the complainant/informant for his appearance before this Court but the notice report has returned unserved.
2. The accused/applicant has moved this **Second bail application** under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 19/2017 registered at Police Station - Ratanpur, Civil and Revenue District Bilaspur (C.G.) for the offence punishable under Sections 450 & 376 of IPC, Section 6 of POCSO Act. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same at an appropriate stage on 08.11.2019 passed in MCRC No. 3662/2019.
3. The allegation against the applicant, as per the prosecution case, is that, when the prosecutrix was all alone in her house, applicant entered her house and committed sexual intercourse with her against her will by gagging her mouth.

Based on that, after investigation, offence has been registered and he has been arrested.

4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further submits that learned trial Court has issued summons notice to the prosecutrix several times but the notices have not been served due to the non-availability of correct address. The prosecutrix has not been appearing before trial Court since last 2 years. Referring to the doctor's deposition (PW-1), he would submit that Dr. Poonam Singh has been examined before the trial Court and she deposed in her statement that the definite opinion of the rape cannot be given in the present case. and in the FIR, there is no allegation of the rape against the applicant. Learned counsel further added that the applicant is in jail since 19.04.2018 and he is ready to furnish adequate surety and shall abide by all the conditions and directions, which may be imposed by this court, therefore, the present applicant may be released on bail.
5. Per contra, State counsel opposes the bail application.
6. I have heard learned counsel for the parties and perused the case diary.
7. Looking to the order-sheet of the trial Court, it is clear that prosecutrix has not been appearing before the trial Court though notices have been sent several times by the trial Court and the notices have not been served due to the non-availability of correct address.
8. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, doctor's deposition (PW-1), as the applicant is in jail since 19.04.2018, the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

9. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the said Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**

Vijay Sahu