

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 147 of 2020**

- Saroj Chouhan S/o Pohit Chouhan Aged About 20 Years Occupation Student Computer Education, R/o Village Kokbahal, Police Station Dongaripali, Tahsil Baramkela, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate, Station House Officer, Police Station Dongaripali, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

For Applicant : Shri Sanjeev Kumar Sahu, Advocate.

For Non-applicant : Ms. Deepti Shukla, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****03.02.2020**

1. The informant – Uttam Kumar Patel is absent though notice has been served upon him.
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 has been rejected by this Court on 15.04.2019 in MCRC No. 1487 of 2019 considering the prima facie case against him.
4. Perused the case diary provided by the learned counsel for the State in connection with crime No.72/2018 registered at Police Station – Dongaripali District Raigarh (C.G.) for the offence punishable under Sections 363, 366, 376, 506 of the Indian Penal Code and 4, 6 of the POCSO Act, 2012.
5. Case of the prosecution, in brief is that on 11.12.2018 prosecutrix was below 16 years of age. She is resident of village Amapali. There was a love affair between her and applicant. They were inclined to marry. Applicant took her by

enticing and committed sexual intercourse with her.

6. Counsel for the applicant argued that the applicant is in jail since 13.12.2018. He drew my attention on Annexure A/4 which is related to filing of application under Sections 319 Cr.P.C. and Sections 33, 4,6,17, 21 of the POCSO Act and Sections 363, 366, 506, 376/120B of the IPC. He further drew my attention on application under Section 311 of the Cr.P.C., affidavits of Vishnu Ram Sinha, Jugal Kishore Dehri, Aadi Mahanand and Gurudev Tandi. Thus, 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 antecedent against the applicant in the case diary.
8. This is well settled legal position that the detention period of the accused and delay in trial are material factors for disposal of the bail application of the accused but equally it is also true that seriousness of the offence, impact of granting bail to the accused on society are also material and important factors for disposal of the bail application of the accused.
9. This is also well settled legal position that while dealing with the bail application Court neither can scrutinize the evidence nor appreciate the same. It is only the trial Court who can do it at the time of disposal of the case.
10. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case to enlarge the applicant on bail in second round of litigation, consequently, the present bail application is rejected.
11. However, the trial Court is directed to expedite the trial and dispose off the case as early as possible.
12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE