

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6318 of 2020**

Durgesh Prajapati S/o Tamesh Prajapati, aged about 22 years, R/o Village Sendri, P.S. Koni, Tahsil & District Bilaspur, Chhattisgarh.

---- **Applicant**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Koni, District Bilaspur, Chhattisgarh.

---- **Respondent**

For the Applicant	:	Shri Santosh Bharat, Advocate
For the State	:	Shri Raghvendra Verma, Govt. Advocate
For the Informant	:	None, though notice has been served upon him

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

07/01/2021

1. Heard.
2. Case diary is available.
3. This is the fifth bail application under Section 439 of the CrPC.
4. Earlier first bail application of the applicant was dismissed as withdrawn vide order dated 19/06/2019 passed in MCRC No.3450/2019. His second bail application was dismissed by Registry on account of non-compliance of peremptory order of this Court dated 06/08/2019 passed in MCRC No. 5160/2019. His third bail application was dismissed for non-prosecution vide order dated 05/12/2019 passed in MCRC No. 7155/2019. His fourth bail application was rejected by this Court vide order dated 05/03/2020 passed in MCRC No.1204/2020 considering *prima facie* case against him.
5. Perused the case diary provided by the counsel for the State in connection with the Crime No.53/2019 registered at Police Station Koni, District Bilaspur (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of the POCSO Act.
6. Case of the prosecution, in brief is that on 19/02/2019 prosecutrix was below 16 years of age. She is resident of village Kachhar. On 19/02/2019 applicant took her on pretext of the marriage and

repeatedly committed sexual intercourse with her.

7. Counsel for the applicant submitted that applicant is in jail since two years. While dealing the fourth bail application Court had directed to the trial Court to expedite the trial and dispose of the case as soon as possible but yet trial has not been concluded, hence applicant may release on bail.
8. On the other hand, counsel for the State opposes the bail application.
9. This is true that detention period of the accused and delay in trial are material factors for disposal of the bail application filed by the accused but equally it is also true that seriousness of the offence, impact of granting bail to accused on society are more important and material factors for disposal of the bail application filed by the accused.
10. Due to COVID-19 the proceedings of the trial Court had been suspended, now the subordinate Courts are working regularly in present scenario it cannot be held that trial Court is responsible for delay in trial.
11. Looking to the above mentioned facts and circumstances of the case and looking to the fact that at the time of alleged incident prosecutrix was below 16 years of age, this Court finds that this is not a fit case where applicant may be released on bail in fifth round of litigation. Consequently, fifth bail application of the applicant is rejected. However, the trial Court is directed to expedite the trial and dispose of the case as soon as possible and preferably within a period of three months from the date of receipt of copy of this order.

Sd/-
(Sharad Kumar Gupta)
Judge