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**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7174 of 2020**

Banti Vasudev S/o Mahant Vasudev Aged About 20 Years R/o Shahid Churamani Ward No. 16, Ramkund Ashram, Vasudev Para, Raipur, Police Station Azad Chowk, Village Uparwara Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Chikhali District Rajnandgaon Chhattisgarh.

---- Respondent

|                   |   |                                 |
|-------------------|---|---------------------------------|
| For the Applicant | : | Shri Ishan Verma, Advocate      |
| For the State     | : | Shri D.C. Verma, Govt. Advocate |
| For the Informant | : | Shri Rakesh Thakur, Advocate    |

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**Hon'ble Shri Justice Sharad Kumar Gupta**

**Order On Board****06/01/2021**

1. Heard.
2. Case diary is available.
3. This is the second bail application under Section 439 of the CrPC.
4. Earlier first bail application of the applicant was rejected by this Court vide order dated 27/03/2019 passed in MCRC No. 621/2019 considering *prima facie* case against him.
5. Perused the case diary provided by the counsel for the State in connection with the Crime No.271/2018 registered at Police Station Chikhali, District Rajnandgaon (C.G.) for the offence punishable under Section 376, 506 of IPC and Section 4, 12 of the POCSO Act.
6. Case of the prosecution, in brief is that on 01/09/2017 prosecutrix was below 15 years of age. She is resident of village Chikhli. On 01/09/2017 onwards applicant committed repeatedly forcible sexual intercourse with her on pretext of the marriage he had also threatened to kill. She became pregnant.
7. Counsel for the applicant submitted that applicant is in jail since 29/06/2018. As per DNA report applicant is not a biological father of child procreated by prosecutrix. He drew my attention on Annexure

A/3 which is part of the bail application, hence applicant may release on bail.

8. On the other hand, counsel for the State opposes the bail application.
9. Counsel for the informant submitted that he has objection on releasing bail to the applicant.
10. 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.
11. This is also well settled legal position that while dealing the bail application Court can neither scrutinized nor appreciate the evidence.
12. This is also well settled legal position that while dealing the bail application Court can not touch the merits and demerits of the case.
13. At this stage applicant does not get any help from Annexure A/3 regarding grant of bail.
14. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where applicant may release on bail in second round of litigation. Consequently, second bail application of the applicant is rejected.

**Sd/-**  
**(Sharad Kumar Gupta)**  
Judge