

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3827 of 2017

- Sunil Sahu @ Sunil Sarva S/o Nutan Sahu, Aged About 23 Years R/o Bhediyeawagaon, Police Station Balod, District Balod, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Balod, District Balod, Chhattisgarh

---- Non-applicant

For Applicant : Mr. B.P. Singh, Advocate.

For Non-applicant : Mr. D.R. Minj, Dy. Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

17.11.2017

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the charge-sheet provided by the learned counsel for the State in connection with crime No. 61/2017 registered at Police Station – Balod, District - Balod (C.G.) for the offence punishable under Sections 450,376,506/34 of the Indian Penal Code and Sections 5 (a) / 6(5) of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that the prosecutrix is a minor, Scheduled Tribe girl and resident of village – Ghadiya, Nawagaon. On 16.04.2016 in the night the appellant had committed sexual intercourse

with the prosecutrix in her house promising to perform marriage. The physical relation was continued. Then after the applicant refused to perform marriage with her. Then, she has given an application to police station Balod, where the FIR was lodged.

4. The charge-sheet has already been filed and the matter is pending before the Sessions Judge, Balod. The applicant is in custody since 20.02.2017.

5. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application.

7. In the description of the statement of the prosecutrix recorded under Section 161 Cr.P.C., her age has been shown 18 years and 7 months. As per the report of the Radiologist the age of the prosecutrix is between 17 to 19 years. The age of the prosecutrix has also been shown 18 years and 7 months in the final report.

8. Looking to these circumstances and other facts of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, the trial will take own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.

9. Accordingly, the bail application of Sunil Sahu filed under Section 439 of the Cr.P.C., is allowed.

10. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he will

appear before the Trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

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