HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4683 of 2017

- Vijendra Kumar Divya S/o Dilip Kumar Divya Aged About 22 Years R/o Village Mandwa, Police Chowki- Giroundhpuri- Police Station-Gidhowri-Tundra, District- Balodabazar- Bhatapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Chowki- Giroudhpuri - Police Station - Gidhowri-Tundra; District - Balodabazar - Bhatapara, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Sumit Jhanwar, Advocate.

For Non-applicant : Shri Surya Kant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

02.11.2017

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. 82/2015 registered at Police Station – Gidhowri-Tundra, District – Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 4 & 6 of the POCSO Act, 2012.

3. Case of the prosecution, in brief, is that the prosecutrix was near about 17 years and 4 months and 17 days old. On 09.05.2015 by 11:30 pm, the prosecutrix was not found in the house. Thus, the father of the prosecutrix Dileep Kumar given an application suspecting the applicant-Vijendra Kumar Divya. Then on 15.06.2017 the prosecutrix was

recovered from the possession of the said applicant. There was a love affair between the prosecutrix and the said applicant. On 09.05.2015 the prosecutrix left her matrimonial house and went to Jammu with the said applicant and there they started residing as husband and wife.

4. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the case, therefore, he may be released on bail.

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

6. As per the certified copy of the deposition sheet, the prosecutrix had gone alone to Jammu after completing her 18 years and performed marriage with the said applicant.

7. 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 its own time, applicant is in custody since 16.06.2017, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.

8. Consequently, the bail application is allowed.

9. 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 will cooperate during the trial, he shall be released on bail.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

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