

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4716 of 2017**

- Sandeep Kumar Sahu S/o Chitranjan Sahu, Aged About 19 Years R/o Bhatgaon (Sarda), Police Station Berla, District- Bemetara, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through: Station House Officer, Police Station Berla, District- Bemetara, Chhattisgarh.

---- Non-applicant

For Applicant : Shri P.P. Sahu, Advocate.

For Non-applicant : Mr. Surya Kant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****01.11.2017**

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 applicant in connection with crime No. 147/2017 registered at Police Station – Berla, District – Bemetara (C.G.) for the offence punishable under Sections 363, 366A, 376, 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that the prosecutrix was below 18 years of age and was studying in Class 12th. She was residing in village Baloidikala. On 17.05.2017 by 5:00 am father of the prosecutrix found that the prosecutrix is not present in the house and someone has

taken away by enticing her, submitted the application on 17.05.2017 before the Police Station – Berla. During the investigation the prosecutrix was recovered from the possession of the co-accused Gopichand Gendre at Dongargarh. Subsequently, he was found minor. During the investigation it was found that the applicant had assisted the prosecutrix to leave the house. It has also been found during the investigation that the co-accused Gopichand Gendre has committed sexual intercourse with the said prosecutrix forcibly.

4. As per the statement under Section 164 of the Cr.P.C of the prosecutrix, there was a love affair between her and the co-accused Gopichand Gendre since back two years. He phoned the co-accused Gopichand Gendre and the applicant to take her away. These facts have also been mentioned in the statement of the prosecutrix taken by the Member of the Child Welfare Committee, Bemetara.

5. Learned counsel for the applicant submits that the applicant is in detention since 29.05.2017 as such he is in custody for the last 5 months. He further submits that applicant is innocent and has been falsely implicated in the case, therefore, he may be released on bail.

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

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 29.05.2017, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.

8. Consequently, the bail application of Sandeep Kumar Sahu, filed under Section 439 of the Cr.P.C., is allowed.

9. It is directed that if the applicant- Sandeep Kumar Sahu 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 also cooperate during the trial, he shall be released on bail.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE