

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4793 of 2017

- Bhagwati S/o Siriya Navrange Aged About 40 Years R/o Village Karahi, Police Station Bemetara District Bemetara Chhattisgarh.

---- Applicant

Versus

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

---- Non-applicant

For Applicant : Shri J.K. Shastri, Advocate.

For Non-applicant : Mr. U.N.S. Deo, Government Advocate

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 copy of the charge-sheet provided by the learned counsel for the applicant in connection with crime No. 363/2017 registered at Police Station – Bemetara, District – Bemetara (C.G.) for the offence punishable under Sections 363, 366, 376, 368, 34 of the Indian Penal Code and Sections 4, 5 (Th), 12 of the POCSO Act.

3. Case of the prosecution, in brief, is that the prosecutrix is near about 17 years and 7 months old. She had gone to Gram – Kobiya in the house of her sister Ansuiya. On 01.06.2017 she had gone to a tailoring shop and did not return back. The mother of the prosecutrix

found that the accused Prakash @ Pappu was also not present in the village. The mother of the prosecutrix lodged the report in police station – Bemetara on 13.06.2017. During the investigation it has been found that the prosecutrix and the accused Prakash @ Pappu had gone to Pune where they resided in the house of Govind who was friend of the accused Prakash. The accused Prakash @ Pappu also committed sexual intercourse with the prosecutrix. Ultimately, they reached to village – Karhi in the house of the present applicant, the father of the accused Prakash @ Pappu.

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 statement recorded under 164 of the Cr.P.C. of the prosecutrix it has been mentioned that the mother and father of Prakash @ Pappu had called them back saying that they would perform their marriage. On 18.06.2017 the Prosecutrix had gone to Police Station Bemetara for withdrawal of the police report.

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 30.06.2017, 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