

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1810 of 2018

- Shivnarayan @ Shiv S/o Mahavir Harijan Aged About 21 Years R/o Padita, Police Station, Tahsil Khadgawa, District Korea, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Patna, District Korea, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant : Shri Anil Gulati, Advocate.

For Non-applicant : Shri Ashish Surana, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

07.05.2018

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 case diary provided by the learned counsel for the State in connection with crime No. 295/2017 registered at Police Station – Patna, District – Korea (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief, is that the prosecutrix is the resident of village Budhar Hardikhad. Her date of birth is 28.09.2002. She has a love affair with the applicant. On 03.12.2017, she left her

parental house because her father had scolded her. She reached to the house of her elder sister. The applicant is the brother of her brother-in-law. On 05.12.2017, the applicant had committed sexual intercourse with her on pretext of marriage.

4. 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 may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. As per the statement of the prosecutrix recorded by the trial Court she does not know the applicant, her parents had lodged a wrong report, the applicant has not committed any wrong work with her.
7. Looking to the facts and circumstances of the case, the applicant is in custody since 06.02.2017, there is no likelihood of the accused to abscond and tamper the evidence, the trial will take its own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.
8. Accordingly, the M.Cr.C. 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 would cooperate during the trial, he shall be released on bail.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE