

AFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 1812 of 2018**

- Surendra Kishor S/o Rajendra Lal Kishor Aged About 21 Years  
R/o Village Sakli, Chowki Giroudhpuri, Police Station Gidhouri,  
District Balodabazar- Bhatapara, Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police  
Station Gidhouri, District Balodabazar- Bhatapara, Chhattisgarh

**---- Respondent**

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For Applicant : Shri Amiyakant Tiwari, Advocate  
For Respondent/ State : Shri UNS Deo, Government  
Advocate  
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**Hon'ble Shri Justice Sharad Kumar Gupta**

**ORDER ON BOARD**

**23.04.2018**

- 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 charge-sheet provided by the learned counsel  
for the State in connection with Crime No.60/2015 registered  
in Police Station Gidhouri, District Balodabazar-Bhatapara  
(CG) for offence punishable under Sections 363, 366, 376 of  
the IPC and Sections 04, 17 and 18 of POSCO (Protection of  
Children from Sexual Offences) Act, 2012.

- 3) Prosecution story, in brief, is that at the time of the incident, prosecutrix was near about 15 years of age. She was resident of village Baloda. On 10.04.2015, in the night at near about 12, the applicant took away the prosecutrix from her house on the pretext of marriage. The applicant took her to Jammu and Kashmir and committed sexual intercourse with her.
- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the case and has not committed any offence. He further submits that the applicant is innocent and has no criminal antecedent, therefore, he may be released on bail.
- 5) On the other hand, learned State counsel opposes the bail application.
- 6) I have heard learned counsel for the parties and perused the case diary.
- 7) As per the statement of statement of the prosecutrix recorded under Section 164 Cr.P.C., there was love affair between her and the applicant, they got married in a temple and now are living conjugal life and in their wedlock, one daughter has born. Looking to these circumstances and other facts of the case and also 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 and also the fact that the applicant is in

jail since 11.01.2018, this Court is inclined to give benefit of Section 439 of the Cr.P.C., to the present applicant.

- 8) Accordingly, the bail application of Surendra Kishor filed under Section 439 of the Cr.P.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 that Court as and when directed till completion of the trial and he would cooperate during the trial, the applicant be released on bail.

Certified copy as per rules.

Sd/-  
**(Sharad Kumar Gupta)**  
**Judge**