

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2398 of 2018

- Vijay Shrivastava S/o Mamlal Shrivastava Aged About 32 Years R/o- Amodi, P.S. Sarsiva, District- Baloda Bazar Bhatapara (CG)

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, P.S. Sarsiva, District- Baloda Bazar Bhatapara (CG)

---- Respondent

For Applicant : Shri Amiyakant Tiwari, Advocate
For Respondent/ State : Shri UKS Chandel, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

ORDER ON BOARD

30.04.2018

- 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 case diary/record provided by the learned counsel for the State in connection with Crime No.27 of 2007 registered in Police Station Sarsiva, district Baloda Bazar, Bhatapara (CG) for offences punishable under Section 376 of the IPC and Section 3(1)(xi) of SC/ST (Prevention of Atrocities) Act, 1989.

- 3) Prosecution story, in brief, is that the prosecutrix is resident of village Amodi. Her date of birth is 13.06.1988. One and half years prior to 29.12.2006, the applicant committed sexual intercourse with the prosecutrix on the pretext of marriage. Thereafter, he committed forcible sexual intercourse with her so many times. Thereafter, he did not marry her. Then the prosecutrix lodged FIR on 18.02.2007 in Police Station Sarsiva.
- 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 record/case diary.
- 7) At the time of the first incident, the prosecutrix was above 16 years of age, looking to this fact and circumstances of the case and also looking to the facts 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 19.02.2018, 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 Vijay Shrivastava 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