

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8178 of 2017

- Manoj Kumar Miri S/o Devsingh Miri Aged About 21 Years R/o Village Sundreli, Thana Baraduwar, District Janjgir-Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Baraduwar, District Janjgir Champa, Chhattisgarh.

---- Non-applicant

For Applicant : Shri K.K. Dewangan, Advocate.

For Non-applicant : Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

01.03.2018

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. 208/2017 registered at Police Station – Baraduwar, District – Janjgir-Champa (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief, is that the date of birth of the prosecutrix is 15.07.2000. She is residing in village Kotadabri,

Bandhwapara. She was in contact with the applicant through telephone. In the month of May, 2016 the applicant called the prosecutrix in his house where he committed sexual intercourse with her on the pretext of marriage. Thereafter, the applicant committed sexual intercourse so many times with the prosecutrix. The family members of the applicant were not ready to keep her. The prosecutrix lodged FIR on 19.08.2017 in Police Station, Baraduwar.

4. The charge-sheet has already been filed and the matter is pending before the First Additional Sessions Judge, Shakti. The applicant is in custody since 20.06.2017.
5. 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 shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. As per the statement of the prosecutrix recorded by the Trial Court, she says in para-2 of her statement given on oath that she had lodged the FIR because father of the applicant had refused to perform marriage of the applicant with her. The applicant has not committed any wrong with her, no other incident has happened.
8. 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 own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present applicant.
9. Accordingly, the bail application of the applicant filed under Section 439 of the Cr.P.C., is allowed.

10. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.10,000/- 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.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE