

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4867 of 2018**

Arun Kumar Joshi, S/o Sunder Lal Joshi, aged about 22 years, resident of Village Khokhali, Police Station Bhatapara (Rural) District Balodabazar (the name of applicant's father was wrongly mentioned in the cause title of Lower Court order).

---- Applicant**Versus**

State of Chhattisgarh, through Police Station Bhatapara (Rural), Civil and Revenue District Balodabazar (CG).

---- Non-applicant

For Applicant : Mr. B.L. Sahu, Advocate.

For Non-applicant : Mr. Manish Nigam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****21.08.2018**

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 counsel for the State in connection with crime No.59/2017 registered at Police Station Bhatapara (Rural), Civil & Revenue District Balodabazar for the offence punishable under Sections 363, 366 & 376 of IPC and Sections 4, 6 & 18 of POCSO Act.
3. Case of the prosecution, in brief is that the age of the prosecutrix

was more than 16 years at the time of incident. She is resident of Village Khokhali. The present applicant took away the prosecutrix and they went to Delhi, where they got married and they were living as a husband and wife as a result of which she became pregnant.

4. The applicant is in custody since 21.02.2018.
5. Counsel for the applicant submits that the applicant has not committed any offence, he is innocent and has been falsely implicated in the present case, therefore, he may be released on bail.
6. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant.
7. I have heard counsel for the parties and perused the case diary with utmost circumspection.
8. Looking to the above mentioned facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence and further looking to the statement of prosecutrix recorded under Section 164 of CrPC, she herself left her house and went with the applicant. The charge-sheet has already been filed and there is no criminal antecedents against the applicant; and the trial is likely to take some more time for its final disposal, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
9. Accordingly, the present bail application 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.30,000/- along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he shall appear before the Trial Court at 11:00 am as and when directed till trial

and he would co-operate during the trial, he shall be released on bail.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)

JUDGE

L/-