

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5412 of 2018**

Avinash Mandal, S/o Shri Ranjit Mandal, aged about 26 years, R/o village Subhashnagar, P.S. Gandhinagar, District Surguja (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Police Station Incharge P.S. Gandhinagar, District Surguja (CG).

---- Non-applicant

For Applicant : Mr. Bhupendra Singh, Advocate

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

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**24.08.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the State in connection with Crime No.83/2018 registered in Police Station Gandhinagar Ambikapur Dehat, District Surguja for the offence punishable under Sections 363, 366, 376(2)(dh), 506 of IPC, Section 5(th)/6 of POCSO and Section 3 (2-5) of SC, ST (Atrocities) Act.
3. Case of the prosecution, in brief, is that the age of the prosecutrix was more than 16 years on the date of incident. She is a member of scheduled tribe. The applicant is a general category. On 22.12.2017 the applicant took the prosecutrix and committed sexual intercourse with her on the pretext of marriage even the applicant was already married man , but he did not disclose this fact to the prosecutrix and also threatened to kill her.
4. Counsel for the applicant submits that the applicant has not committed any offence and has been falsely implicated in the case; and there is a delay in lodging the FIR and as such the applicant may be released on bail.

5. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant.
6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. Looking to the *prima facie*, the applicant was already married man and committed sexual intercourse with the prosecutrix on the pretext of marriage. Looking to this facts and circumstances of the case and looking to the seriousness of the offence; and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
8. Consequently, the bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-