

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5010 of 2018**

Mo. Javed Aalam S/o Late Mo. Iliyas, Aged About 22 Years
Occupation Mistry, Resident Of Village And Post - Bargidih,
Thana And Tahsil Lundra, District Surguja Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Lundra, District
Surguja Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Vikas Pandey, Advocate
For the State	:	Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**20/08/2018**

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No. 76/2018 registered at Police Station Lundra, District Surguja (C.G.) for the offence punishable under Sections 363, 366, 376 read with 34 of IPC and Section 12 of Protection of Children from Sexual Offence Act.
3. Case of the prosecution, in brief is that the date of birth of the prosecutrix is 09/05/2001. She is resident of village Bargidih, District Surguja. On 16/05/2018 accused Mohd. Imran @ Azad had taken away her on his motorcycle. Co-accused Rahul was seated in back and gagged her mouth. Present applicant was also present there in another motorcycle. Prosecutrix was kept in the house of Rahul

where co-accused Mohd. Imran @ Azad committed forcibly sexual intercourse with her.

4. Learned counsel for the applicant submits that applicant is innocent and falsely implicated in the present case, charge-sheet has been filed and the applicant is in custody since 18/05/2018, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application, however, he submits that there is no previous antecedent against the present applicant.
6. Looking to the above mentioned facts and circumstances of the case, looking to this fact that there is no likelihood of the accused to abscond and tamper the evidence and the trial will take its own time, applicant is in jail since 18/05/2018 and as per the Government Advocate there is no previous antecedent against the present applicant, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicant.
7. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed.
8. 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 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 cooperate during the trial, he shall be released on bail.
9. Certified copy today.

Sd/-

(Sharad Kumar Gupta)
Judge