

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5408 of 2018**

Dikeshwar Dhivar S/o Shri Faguva Ram Dhivar Aged About 21 Years R/o Ward No. 1 Kranti Chowk, Ahiwara, Police Station Nandani District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Nandani, District Durg, Chhattisgarh

---- Respondent

For the Applicants	:	Shri Vipin Tiwari, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**24/08/2018**

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. 104/2018 registered at Police Station Nandani, District Durg (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and 5 (i), 6 of Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that on 11/04/2018 prosecutrix was more than 16 years old. She is resident of village Ahiwara, District Durg. Applicant taken away her enticing and on pretext of marriage. He committed sexual intercourse with her.
4. Learned counsel for the applicant submits that applicant is innocent and falsely implicated in the present case, therefore, he shall be

released on bail.

5. On the other hand, learned counsel for the State opposes the bail application.
6. As per the copy of the statement of the prosecutrix recorded under Section 164 of CrPC, she had love affair with the applicant and she herself voluntarily gone with him. She had get physical relationship with applicant with her own will and wish.
7. Looking to the above mentioned facts and circumstances of the case and as per the statement of the Govt. Advocate there is no antecedent against the applicant, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicants.
8. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed. 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 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 as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge