

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5413 of 2018**

Jai Chand Tandon, S/o Fagnudas Tandon, aged about 21 years, R/o Matamaya Para, Gandai, Thana Gandai, District Rajnandgaon (CG).

---- Applicant**Versus**

State of Chhattisgarh, through the Police Station Saja, District Bemetara (CG).

---- Non-applicant

For Applicant : Ms. Upasana Mehta, Advocate.

For Non-applicant : Ms Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****23.08.2018**

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.257/2017 registered at Police Station Saja, District Bemetara for the offence punishable under Sections 363, 366 (a), 376 of IPC and Section 6 of POCSO Act.
3. Case of the prosecution, in brief is that the age of the prosecutrix was near about 14 years 03 months on the date of incident. On 18.07.2017, the applicant took away the prosecutrix in different places and committed sexual intercourse forcibly with her.
4. 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.
5. On the other hand, counsel for the State opposes the prayer for

grant of bail to the applicant.

6. I have heard counsel for the parties and perused the case diary with utmost circumspection.
7. As per the statement of prosecutrix recorded under Section 164 of CrPC, there was intimacy between her and the applicant. On 18.07.2017 she herself sat in the car of the applicant and went to the house of applicant at village Gandai and they got married. The applicant has committed sexual intercourse with her consent.
8. Looking to these 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 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/-