

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5269 of 2018**

Falit Tandon S/o Ramnarayan Tandon, Aged About 28 Years R/o
Village Sendri, Police Station Bhatapara, Civil and Revenue
District Baloda Bazar, CG.

---- Applicant**Versus**

State Of Chhattisgarh through the Station House Officer, Police
Station Nandghat, District Bemetara, CG

---- Respondent

For applicant	Ms. Sharmila Singhai, Adv.
For Respondent/State	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****26-7-2018**

1. The MCRC is admitted.
2. Heard.
3. This is 3rd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His first bail application was dismissed by this Court vide order dated 2-11-2017 passed in MCRC No. 4558/2017 on merit. And his second bail application bearing MCRC No. 1767/2018 was dismissed as withdrawn vide order dated 13-4-2018.
4. Earlier this Court has perused the case diary of the case and decided earlier bail application.
5. The applicant has been arrested in connection with Crime No. 148/2017 registered in police station Nandghat, Distt. Bemetara (CG) for offence punishable under Sections 363, 366, 376 and 506, 34 of the IPC and section 4 of the Protection of Children from Sexual Offences Act, 2012.
6. In brief, prosecution story is that on 13-6-2017, the prosecutrix along with her girl friend was returning back from village Darri

Chowki Maro to the house of grand father of the prosecutrix by bus. At Nandghat Bus Stand, present applicant Falit Tandan and co-accused Charandas Tandan took away the prosecutrix by enticing. Statement of the prosecutrix recorded under Section 161 of the Cr.P.C. reveals that the said applicant had taken away her from Nandghat bus Stand towards Sendari.

7. Counsel for the applicant argues that the applicant is innocent and has been falsely implicated in the crime. He is in jail since 22-6-2017. She draws my attention in paras 6 and 18 of the statement of the P.W. 1 prosecutrix, paras 20 and 21 of the statement of P.W. 4 Dilesh Kumar Tandan, father of the prosecutrix, para 9 of the statement of P.W. 5 Smt. Kirti Tandan, mother of the prosecutrix, para 4 and 6 of the statement of P.W. 10 Ramkumar Dhruw. She also draws my attention on the fact that P.W. 8 Dr. Nidhi Meshram has not found any injury on the body of the prosecutrix. Thus, these circumstances are sufficient to release the applicant on bail.
8. On the other hand, counsel for the State submits that prima facie the applicant has committed the offence and he is not entitled for bail.
9. What would be the effect of the aforesaid statements of aforesaid witnesses looking to the entire statement of the prosecutrix would be decided by the trial Court. What is the actual age of the prosecutrix would be determined by the trial Court after considering entire evidence of the case. What would be the effect of not finding any injury on the body of the prosecutrix is also a considerable point for the trial Court for

determination of the case.

10. At this stage, while deciding the bail application, aforesaid circumstances do not help the applicant for granting him benefit of Section 439 of the Cr.P.C.
11. There are no change of circumstances which may entitle the applicant for grant of bail.
12. Looking to the above-mentioned facts and circumstances of the case, this 3rd bail application is also rejected.

Sd/-
(Sharad Kumar Gupta)
Judge