

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5378 of 2018**

Ganesh S/o Sudheram Yadav Aged About 25 Years R/o
 Bhagutola (Baghutola) Police Station Boramdev District
 Kawardha Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer,
 Police Station Boramdev District Kawardha, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Dharmesh Shrivastava, Advocate
For the State	:	Shri Manish Nigam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**21/08/2018**

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. 03/2018 registered at Police Station Boramdev, District Kabirdham (C.G.) for the offence punishable under Sections 363, 366, 376, 212, 34 of IPC and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that the date of birth of prosecutrix is 16/11/2000 and is more than 17 years of age, she is resident of village Chikhli, District Kabirdham. Five months prior to 01/02/2018 applicant was committed sexual intercourse with the prosecutrix on pretext of marriage. Thereafter applicant taken away her and committed sexual intercourse continuously.

4. Learned counsel for the applicant submits that applicant is innocent and falsely implicated in the present case, charge-sheet has been filed and applicant is in custody since 04/04/2018, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application and submits that no other criminal case is registered against the present applicant.
6. As per the photocopy of statement of 164 CrPC of the prosecutrix there was love affair between her and the applicant and she had told him that he would abscond her. She met the applicant at Kawardha and accompanied with him. They were living as husband and wife and now she is pregnant.
7. 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, charge-sheet has been filed and applicant is in jail since 04/04/2018, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicant.
8. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed.
9. 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.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge