

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5383 of 2018**

Durgesh Tondre, S/o Chetlal Tondre, aged about 20 years, R/o Village Potiya, Out Station Jalbandha, Police Station Khairagarh, District Rajnandgaon.
---- Applicant

Versus

State of Chhattisgarh, through Police Station Khairagarh, Out Post Jalbandha, District Rajnandgaon (CG).
---- Non-applicant

For Applicant : Mr. Rakesh Pandey, Advocate.

For Non-applicant : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****21.08.2018**

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.82/2018 registered at Police Station Khairagarh, District Rajnandgaon for the offence punishable under Sections 363 & 376 of IPC and Sections 4, 6, 8, 10 & 12 of POCSO Act.
3. Case of the prosecution, in brief is that birth date of the prosecutrix is 12.07.2001. At the date of first incident on 13.03.2018, her age was more than 16 years. On 13.03.2018 she went to Khairagarh along with applicant with her consent and thereafter they went to Nagpur.
4. The applicant is in custody since 19.03.2018.

5. 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.
6. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant.
7. I have heard counsel for the parties and perused the case diary with utmost circumspection.
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 further looking to the statement of prosecutrix recorded under Sections 161 & 164 of CrPC, she had not stated anything about sexual intercourse with her by the applicant. The charge-sheet has already been filed and there is no previous antecedent against the applicant; 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