

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5403 of 2018**

Samar Bahadur @ Bahadur Ghasi, S/o Balmukund Ghasi, aged about 22 years, R/o Kudhkel, Patelpara, P.S. Batouli, District Surguja (CG).

---- Applicant**Versus**

State of Chhattisgarh, through the Station House Officer, Police Station Batouli, District Surguja (CG).

---- Non-applicant

For Applicant : Mr. Jitendra Shrivastava, Advocate

For Non-applicant : Mr. Vinod Tekam, 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.
2. Perused the copy of charge-sheet provided by the counsel for the State in connection with Crime No.43/2018 registered in Police Station Batouli, District Surguja for the offence punishable under Sections 363, 366, 376 (2) (ॢ) of IPC and Sections 5(ॢ) /6 of the POCSO Act, 2012.
3. Case of the prosecution, in brief, is that the age of the prosecutrix is near about 14 years on the date of incident. She is resident of village Batouli. On 27.04.2018 the applicant took away the prosecutrix by intentionally and committed sexual intercourse with her so many times.
4. Counsel for the applicant submits that the applicant has not committed any offence and has been falsely implicated in the case and as such the applicant may be released on bail.
5. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant. However, he further submits that no criminal antecedent is reported against the applicant in the police case diary.
6. I have heard counsel appearing for the parties and perused the

case diary with utmost circumspection.

7. After recording of statement of the prosecutrix under Sections 161 & 164 of CrPC and after recording of statement of the prosecutrix by Child Welfare Committee, Surguja, the supplementary statement under Section 161 of CrPC has been recorded on 01.07.2018, where she has stated that the applicant has committed forcibly sexual intercourse with her so many times. Looking to these circumstances and looking to other facts and circumstances of the case and looking to the age of the prosecutrix, who was below 14 years old on the date of incident and looking to the seriousness of the offence; and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
8. Consequently, the bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-