

NAFRHIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 5396 of 2018

- Lav Kumar Paswan S/o Ram Pravesh Paswan Aged About 19 Years R/o Near Shani Temple, Shramik Nagar, Thana Jamul Ditt. Durg Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Jamul Distt. Durg Chhattisgarh.

---- Non-applicant

For Applicant : Shri Samir Singh, Advocate.

For Non-applicant : Shri Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar GuptaOrder On Board21.08.2018

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 learned counsel for the State in connection with crime No. 225/2018 registered at Police Station – Jamul, District – Durg (C.G.) for the offence punishable under 376, 506 of the IPC, Section 6 and 8 of the POCSO Act, 2012.
3. Case of the prosecution, in brief is that date of birth of prosecutrix is 03.05.2008. At the time of alleged first incident on 08.05.2018 she was near about 10 years' old. On 08.05.2018 near about 3 pm applicant had taken away prosecutrix in his house and committed forcible sexual intercourse with her, grand mother of the prosecutrix had gone to

working place and returned back by 5 pm.

4. Learned counsel for the applicant argued that medical report of prosecutrix is nil. Applicant is a labour and there was a previous enmity between the applicant and family members of prosecutrix, he has been falsely implicated in the case, he is innocent, therefore he may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. If no injury has been found in medical examination of prosecutrix then what would be its effect, it should be considered at the time of disposal of the case. Similarly, the effect of the enmity also may be considered during the appreciation of the evidence while disposing the case.
7. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, looking to the impact of granting bail to the applicants on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicants.
8. Consequently, the present bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE