

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5395 of 2018**

- Dharmendra Yadav S/o Late Itwari Yadav Aged About 23 Years R/o Khara, Police Station Rangakhar, District Kabirdham, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Rengakhar District Kabirdham, Chhattisgarh.

---- Non-applicant

For Applicant : Shri F.S. Khare, Advocate.

For Non-applicant : Shri Wasim Miyan, Panel Lawyer

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 learned counsel for the State in connection with crime No.49/2017 registered at Police Station – Rengakhar, District – Kabirdham (C.G.) for the offence punishable under Sections 363, 366, 376(2)(b) of the Indian Penal Code, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and 3(2)(5) of the SC/ST (Prevention of Atrocity) Amendment Act, 2015.
3. Case of the prosecution, in brief is that the date of birth of prosecutrix is 20.11.2000. At the time of first incident she was aged

more than 16 years. She is resident of village – Khara. There was a love affair between prosecutrix and the applicant. On 29.09.2017, prosecutrix and applicant left village and traveled to different places. Applicant committed sexual intercourse many times with the prosecutrix on pretext of marriage.

4. The applicant is in custody since 12.04.2018. Charge sheet has been filed.
5. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
7. As per the photocopy of the statements of the prosecutrix recorded u/s 164 Cr.P.C. applicant has not committed sexual intercourse with her.
8. Looking to the facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, the trial will take its own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the present 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 of like sum to the satisfaction of the concerned Trial Court with the condition that he will 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.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

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