

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5434 of 2018**

- Shubham Tiwari S/o Shri Ravi Tiwari Aged About 25 Years R/o- Village And Post Sambalpur P.S. And Tehsil Bhanupratappur, District- North Bastar Kanker, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through- P.S. Bhanupratappur, District- North Bastar Kanker, Chhattisgarh.

---- Non-applicant

For Applicant : Shri P.K.C. Tiwari, Advocate.

For Non-applicant : Shri Sumit Jhanwar, 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 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. 38/18 registered at Police Station – Bhanupratapur, District – Kanker (C.G.) for the offence punishable under Section 376,506 r/w 120(B) of IPC and Sections 4 and 17 of the POCSO Act.
3. Case of the prosecution, in brief is that on the alleged date of incident on 21.02.2016 the prosecutrix was 15 years old. She is resident of Chandni Chowk, Sambalpur, District – North Bastar, Kanker. On 21.02.2016 near about 12 pm applicant taken away her by enticing in the grocery shop namely Ganga Provision and committed sexual intercourse with her and given threatening to kill.

4. Learned counsel for the applicant argued that the FIR has been lodged after two years of alleged incident, in the MLC of the prosecutrix no injury has been found on her body, applicant has been falsely implicated in the case, therefore, he may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. In the record Saraswati Shishu Mandir, the date of birth of the prosecutrix is mentioned as 22.09.2000 and in the vaccination register it has been recorded as 22.01.2000. The effect of delayed FIR and non presence of injury over the body of prosecutrix may be considered at the time of final disposal of 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 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 present bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE