

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5431 of 2018**

- Jai Kumar Kosle S/o Hari Ram Kosle Aged About 22 Years R/o- Village Pendridih, P.S. Hirri, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Chowki Manikpur, P.S. City Kotwali Korba, District- Korba, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Ram Narayan Sahu, 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. 341/2018 registered at Police Station – City Kotwali Korba, District – Korba (C.G.) for the offence punishable under Sections 363, 376, 342 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that at the time of alleged incident on 17.05.2018 the prosecutrix was more than 16 years old. She is resident of SBS Colony, Korba. There was a friendship between the prosecutrix and the applicant. On 17.05.2018 the applicant had taken away the prosecutrix and

committed sexual intercourse with her.

4. The applicant is in custody since 28.05.2018.
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. In the statement of the prosecutrix recorded by the Child Welfare Committee, Korba the prosecutrix had told that the applicant had taken her outside. The prosecutrix had given company to applicant. This statement has been recorded after recording of the statements u/s 161 and 164 Cr.P.C.
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