

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5855 of 2018**

Ramnath Yadav S/o Jhurru Yadav Aged About 50 Years R/o-
Laakhsar, Thana- Sakri, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Police Station- Sakri, District-
Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Vijay Kumar Mishra and Shri Krishna Kumar Khatri, Advocates
For the State	:	Shri Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**31/08/2018**

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No. 75/2018 registered at Police Station Sakri, District Bilaspur (C.G.) for the offence punishable under Sections 376 of IPC and 5(M)/6 POCSO Act.
3. Case of the prosecution, in brief is that on prosecutrix is near about 4 years old and resident of village Awaspara Lakhasar. On 17/03/2018 when the mother of the prosecutrix returned back her house after doing the labour work, prosecutrix told her that her private part was suffering from pain. Next day in the morning she had gone in the house of Chandrakali along with the prosecutrix. At that place prosecutrix told that yesterday applicant had taken her in the room and after removing her underwear he had committed wrong act with her, he had lying upon her body.

4. Counsel for the applicant argued that in the statement of the prosecutrix and her mother kind of rape has not been mentioned, medical report does not support the prosecution case. Counsel for the applicant further argued that FIR is delayed and reason that matter has to be compromised is not natural. Applicant is innocent and falsely implicated in the present case, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Looking to the facts and circumstances of the case *prima facie* it could not be said that ingredients of Section 375 of IPC do not attract in this case.
7. Mere not found the injuries on the body of the prosecutrix, does not entitled the applicant to get the benefit of the bail.
8. What would be effect of the delayed FIR, it would be considered by the trial Court while deciding the case on the basis of merit.
9. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence and also the impact of granting bail on the society, this Court is not inclined to grant bail to the applicant.
10. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge