

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5717 of 2018**

Toman Lal Sahu S/o Firu Ram Sahu Aged About 26 Years R/o- Village Biretara Balod, Tehsil And Police Station Balod, District- Balod, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Police Station Balod, District- Balod, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Prasoon Agrawal, Advocate
For the State	:	Shri Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**26/09/2018**

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 counsel for the State in connection with the Crime No. 86/18 registered at Police Station Balod, District Balod (C.G.) for the offence punishable under Section 376(2)(a) of IPC and Section 5 (a) and 5 (b)(ii)/6 of POCSO Act.
3. Case of the prosecution, in brief is that the prosecutrix was 17 years and 7 months old on 22/11/2017. She is resident of village Biretara. There was a love affair between the applicant and the prosecutrix. On 22/11/2017 applicant committed sexual intercourse with her on pretext of marriage. The physical relationship was continued.
4. Learned counsel for the applicant submits that 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. He further submits that there is no antecedents of the

applicant.

6. Looking to the above mentioned facts and circumstances of the case, looking to this fact that prosecutrix turned hostile during recording of her statement by the trial Court, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicant.
7. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed. It is directed that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that he shall 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.
8. Certified copy as per rules.

Sd/--
(Sharad Kumar Gupta)
Judge

Kamde