

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5693 of 2018**

- Gaokaran Jaiswal S/o Tirith Jaiswal Aged About 22 Years R/o- Ward No. 15, Indira Colony Pallari, Police Station- Pallari, District- (Revenue And Civil)- Balodabazar-Bhatapara, Chhattisgarh.

---- Applicant

**Versus**

- State Of Chhattisgarh Through- Police Station- Pallari, District (Revenue And Civil)- Balodabazar-Bhatapara, Chhattisgarh.

---- Non-applicant

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For Applicant : Shri Sumit Jhanwar, Advocate.

For Non-applicant : Shri Vinod Tekam, Panel Lawyer

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**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****30.08.2018**

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. 395/2017 registered at Police Station – Pallari, District – Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012 and 3(2)(5) of the SC/ST(Prevention of Atrocity) Act.
3. Case of the prosecution, in brief is that prosecutrix is member of Scheduled Tribe. Applicant is neither member of scheduled caste nor schedule tribe. On 24.10.2017 prosecutrix was more than 16 years of age,

applicant taken away her by enticing and on the pretext of marriage committed sexual intercourse with her.

4. 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.
5. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
6. As per the statement of the prosecutrix recorded under Section 164 of the Cr.P.C. she left her house due to quarrel with her parents. She has not told anything against applicant.
7. 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.
8. Accordingly, the present bail application filed under Section 439 of the Cr.P.C., is allowed.
9. 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.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)  
**JUDGE**