

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5707 of 2018**

- Sitaram Tandan S/o Sunit Ram Tandan Aged About 28 Years R/o Village Kotgaon Chowki Birejhar, P. S. Kurud, Dist. Dhamtari Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through P. S. Kurud, Dist. Dhamtari Chhattisgarh.

---- Non-applicant

For Applicant : Shri J.K. Gupta, Advocate.

For Non-applicant : Shri Washim Miyan, Panel Lawyer

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. 304/2018 registered at Police Station – Kurud, District – Dhamtari (C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
3. Case of the prosecution, in brief is that prosecutrix is 50 years old and resident of village Kotgaon. On 7.7.2018 near about 4:30 pm near Kulhadi Turn applicant forcibly pressed her breast and inserted his fingers in her vagina.
4. Learned counsel for the applicant argued that there is delay of 3 days in lodging the FIR, 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.

6. What would be the effect of delayed FIR that would be considered by the Trial Court while appreciating evidence for the disposal of the case.

7. Looking to the facts and circumstances of the case, looking to the allegation and seriousness of the offence, age of the deceased, 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