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**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5859 of 2018**

Tumendra Kaushik S/o Mr. Dheerlal Kaushik Aged About 23 Years Caste- Marar, Resident Of Village And Post Mulmula, Marar Para, P.S. Kondagaon, District- Kondagaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- The Police Station Kondagaon, District- Kondagaon, Chhattisgarh.

---- Respondent

|                   |   |                                |
|-------------------|---|--------------------------------|
| For the Applicant | : | Shri Raza Ali, Advocate        |
| For the State     | : | Shri Wasim Miyan, Panel Lawyer |

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**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. 220/2017 registered at Police Station Kondagaon, District Kondagaon (C.G.) for the offence punishable under Section 376 of IPC and Section 6 of the POCSO Act.
3. Case of the prosecution, in brief is that on 12/04/2016 prosecutrix was more than 16 years old. She is resident of village Lampspara Mulmula, 1½ years ago from 12/10/2017 applicant had committed sexual intercourse with her so many times on pretext of marriage. Thereafter he refused to marry with her.
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.

6. As per the statement of the prosecutrix recorded by the trial Court she stated that applicant had not committed anything with her and she had not lodged the report against him.
7. Looking to the above mentioned facts and circumstances of the case and as per the statement of the Govt. Advocate there is no antecedent, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicant.
8. 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. 30,000/- 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.
9. Certified copy as per rules.

Sd/-  
**(Sharad Kumar Gupta)**  
Judge