

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5922 of 2018**

Raman Dhimar S/o Nohar Lal Dhimar Aged About 18 Years R/o-
Village Oteband, P.S. Gunderdehi, District- Balod, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- The Station House Officer,
Police Station Gunderdehi, District- Balod, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri N.S. Dhurandhar, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**07/09/2018**

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. 129/2018 registered at Police Station Gunderdehi, District Balod (C.G.) for the offence punishable under Sections 363 and 376 (2) (I) of IPC and Section 3 & 4 of the POCSO Act.
3. Case of the prosecution, in brief is that on 01/04/2018 prosecutrix was below 16 years of age. She is resident of village Oteband. On 01/04/2018 at about 10.30 p.m. when prosecutrix came outside to hear the barking of pet dog, applicant reached there and told her to come with him. Prosecutrix refused, then he taken away her in Primary School by enticing, thereafter in the bathroom of the school he committed forcibly sexual intercourse with her. At that point of time brothers of the prosecutrix reached there then applicant fled away.
4. Counsel for the applicant draw my attention to the certified copy of the statement of the prosecutrix recorded by the trial Court. He urged 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. I have gone through the certified copy of the statement of the prosecutrix recorded by the trial Court. She says in para 2 that applicant had told her to come with him, thus she accompanied the applicant, they reached in the School where they were talking, at that time her brothers reached there and became an angry. She does not say that allegedly applicant had committed sexual intercourse with her.
7. Looking to the above mentioned facts and circumstances of the case and as per the statement of the Govt. Advocate there is no antecedents of the applicant, 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