

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5962 of 2018**

- Shivkumar @ Abhay Singh S/o Guharam Aged About 22 Years R/o- Nawadih Pali, Outpost Junapara, Police Station Takhatpur, District- Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through- Station House Officer, Police Of Police Station- City Kotwali, Mungeli, District- Mungeli, Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Anil Gulati, Advocate.

For Non-applicant : Mr. Washim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****07.09.2018**

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. 452/2018 registered at Police Station – City Kotwali Mungeli, District – Mungeli (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 4, 5, J(2), L and 6 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that on 13.08.2017 prosecutrix was more than 16 years of the age. There was a love affair between the prosecutrix and applicant. On 12.04.2017, they performed marriage in a

temple. Applicant had committed sexual intercourse with her. On 13.08.2017, she left her parental house and gone away with applicant to different places.

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, he submits that there is no antecedent against the applicant.

6. As per the certified copy of the statement of the prosecutrix recorded u/s 164 Cr.P.C. she had ran away from her parental house and performed marriage with applicant. She wants to live with applicant. They have a four months baby.

7. Looking to these 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 in the 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