

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6188 of 2018**

- Mahendra Kumar Manikpuri S/o Aghori Das Manikpuri Aged About 23 Years
R/o Manchladih, Police Station Kosir, District Raigarh, Chhattisgarh, District :
Raigarh, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Kosir,
District Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

---- Non-applicant

For Applicants : Shri Awadh Tripathi, Advocate.

For Non-applicant : Shri S. Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****29.10.2018**

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. 22/2018 registered at Police Station – Kosir, District – Raigarh (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offence Act.
3. Case of the prosecution, in brief is that prosecutrix is near about 13 years old. She is resident of village Chhind. On 12.02.2018 she was enjoying the dance program in the night at village Machaladih. She had gone to toilet towards the dilapidated house of Tulsi Das. At that time

applicant reached there, pressed her mouth and took her in the said house and committed sexual intercourse with her. When she shouted Dhir Das and Nawal Das reached there.

4. Learned counsel for the applicant argued that the applicant has no criminal background, he is innocent, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application and submitted that one another criminal case has already been registered against the applicant u/s 498A IPC.
6. Counsel for the applicant further submitted that his wife had lodged a criminal case u/s 498A IPC against him wherein Nawal and Dhir were prosecution witnesses who are maternal uncle of the wife of the applicant. He further submitted that the Doctor has given an opinion that there was no sign of complete sexual intercourse, thus he may be released on bail.
7. Prima facie if the Doctor has given opinion that there is no sign of sexual intercourse, it does not mean that prima facie no rape has been committed. What would be the effect of medical report, it would be considered by the trial Court at the time of disposal of the case.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, 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.
9. Consequently, the present bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE