

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6304 of 2018**

Ashu @ Ashutosh Kunday S/o Shri Pradeep Kunday Aged About 19 Years R/o- Shastri Market, Near- Atta Chakki, Banstal, Police Station Golbazar, Raipur, District- Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station- Tikrapara, District- Raipur, Chhattisgarh.

---- Respondent

For the Applicant	:	Ms. Saumya Sharma, Advocate
For the State	:	Shri S.K. Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**09/10/2018**

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. In connection with the Crime No.375/2017 registered at Police Station Tikrapara, District Raipur (C.G.) for the offence punishable under Sections 376, 450, 342, 506 of IPC and Section 3 & 4 of the POCSO Act.
3. Case of the prosecution, in brief is that on 19/07/2017 prosecutrix was more than 16 years old. On 19/07/2017 at about 11.30 p.m. in Rawanbatha Jagdamba Colony, Math Puraina applicant entered in the house of Ramkumar Dhruv and reached in the room of the prosecutrix. He locked the room and committed forcibly sexual intercourse with the prosecutrix, given her threatening to kill. At about 3.30 p.m. her father knocked the door to get some articles but she did not opened the door, brother of the prosecutrix entered in the room through window and opened the door. Applicant had pressed the mouth of the prosecutrix.
4. 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. Case diary is not available. In the photocopy of arrest memo enclosed with the photocopy of charge-sheet, there is no antecedents recorded against the applicant.
7. Looking to the fact 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 the benefit of Section 439 of the Cr.P.C. to the present applicant.
8. It is directed that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- 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

Kamde