

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6412 of 2018

- Shahruxh Khan S/o Nasir Khan Aged About 19 Years R/o House No. 324, Bombay Awas Ghasidas Nagar, Jamul, Police Station Jamul District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Jamul District Durg, Chhattisgarh.

---- Non-applicant

For Applicant : Ms. Priya Sharma, Advocate.

For Non-applicant : Mr. Neeraj Sharma, Dy. Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

10.10.2018

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. 599/2017 registered at Police Station – Jamul, District – Durg (C.G.) for the offence punishable under Section 363, 376 of the Indian Penal Code and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that on 30.11.2017 prosecutrix was below 16 years of age. She is resident of Ghasidas Nagar, Jamul. On 30.11.2017, she had left her house and joined company of the

applicant. She had liking for the applicant. They lived in Bhilai Power House. Applicant had committed sexual intercourse with her on the pretext of marriage.

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, she turned hostile in the Trial Court.

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.25,000/- 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