

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No.7168 of 2018**

Shiekh Ashif, S/o Shri Sheikh Ali Hussain, aged about 21 years, R/o Jawahar Nagar, Behind Indira Gandhi College, Bhilai, Police Station Jamul, District Durg (CG).

**---- Applicant****Versus**

State of Chhattisgarh, through Police Station Jamul, District Durg (CG).

**---- Non-applicant**

For Applicant : Mr. Arvind Kumar Dubey, Advocate.

For Non-applicant : Mr. Ashok Kumar Swarnakar, Panel Lawyer

**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****02.11.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other Court.
2. The applicant has been arrested in connection with Crime No.16/2018 registered in Police Station Chhawani, District Durg for the offence punishable under Sections 363, 366, 376 of IPC and Section 5(L)/6 of Protection of Children from Sexual Offence Act.
3. Prosecution story in brief is that on 05.01.2018 the prosecutrix was below than 16 years old. She is resident of village Jawahar Nagar, Durg. The prosecutrix's father was compelling her for begging. On 05.01.2018 she herself joined accompany of the applicant and went to Bilaspur. The applicant in his friend's house committed sexual intercourse with her on the pretext of marriage. They made physical relationship continuously.
4. Counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case hence he may be released on bail.
5. Counsel for the State opposed for grant of bail. He further submitted that no criminal antecedent is reported against the applicant in police case diary.
6. I have heard counsel for the parties and perused the case diary with utmost circumspection.
7. As per true copy of statement of prosecutrix recorded under Section

164 of CrPC in which she has stated that she herself called the applicant and told him that he shall take away her anywhere, otherwise, she shall die after consuming poison.

8. 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; and the trial is likely to take some more time for its final disposal, this Court is inclined to give benefits of Section 439 of the CrPC to the applicant.

9. Accordingly, the present bail application filed under Section 439 of the CrPC is allowed.

10. 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 shall appear before the Trial Court at 11:00 am as and when directed till trial and he would co-operate during the trial, he shall be released on bail.

11. Certified copy as per rules.

**Sd/-**

(Sharad Kumar Gupta)  
**JUDGE**

L/-