

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7087 of 2018**

Aaladas, aged about 35 years, S/o Mangal Das, R/o Village Sonpur,
Thana Khadgava, District Koriya (CG).

---- Applicant**Versus**

State of Chhattisgarh, through District Magistrate, District Koriya
Baikunthpur (CG).

---- Non-applicant

For Applicant : Mr. Parag Kotecha, Advocate.

For Non-applicant : Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**26.10.2018**

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 counsel for the State in connection with Crime No.37/2018 registered at Police Station Kelhari, District Koriya for the offence punishable under Sections 363, 365, 366(A), 376(2), 294, 323, 370(4), 109, 417 of Indian Penal Code.
3. Case of the prosecution, in brief is that on 30.05.2018 the prosecutrix was below than 16 years old. She is a resident of village Gadrakund. On 30.05.2018 co-accused Naindas took away her at Surajpur and where he committed committed sexual intercourse with her. Thereafter, co-accused Naindas sold her to his brother-in-law Sambhu. Co-accused Sambhu and the present applicant had brought the prosecutrix by motor-cycle. Co-accused Sambhu also committed sexual intercourse with her.

4. Counsel for the applicant submits that the applicant has not committed any offence. He is innocent and has been falsely implicated in the present case, therefore, he may be released on bail.
5. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant. He further submits 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 photocopy of statement of the prosecutrix recorded under Section 164 of CrPC, she does not say anything against the present applicant.
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 benefit of Section 439 of the Cr.P.C. to the applicant.
9. Accordingly, the present bail application filed under Section 439 of the Cr.P.C., 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/-