

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7322 of 2018**

- Kaushik Koshley S/o Bhau Lal Koshley, Aged About 35 Years R/o Village-Dhansuli, Police Station- Mahasamund, Tahsil And District- Mahasamund, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through The Station House Officer, Police Station- Mahasamund, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Shri B.D. Guru, Advocate.
For Respondent/State	: Shri Vivek Singhal, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**31/10/2018**

1. This is the Applicant's first bail application preferred under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 231/2018, registered at Police Station – Mahasamund, District- Mahasamund, (C.G.), for the offence punishable under Sections 354, 450, 506, 376(2) (J) of the Indian Penal Code and Sections 4 & 8 of POCSO Act, 2012.
2. As per the prosecution story, mother of the prosecutrix lodged a report in police station wherein it was alleged on 26.05.2018 to the effect that on 17.05.2018, the Applicant entered into her house forcibly and committed rape with her daughter (prosecutrix), aged about 15 years. On the basis of the said report, offence has been registered against the present Applicant. He was taken into custody on 31.05.2018.
3. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. He further submits that mother of the prosecutrix lodged report due to

some enmity with the Applicant. The incident alleged to have happened on 17.05.2018 but the report has been lodged on 26.05.2018 without explaining the delay by giving sufficient and cogent reasons. He further submitted that police has recorded the statement of the prosecutrix twice under Section 161 of Cr.P.C. on 26.05.2018 itself. In her statement, firstly recorded under 161 of Cr.P.C., prosecutrix had not stated anything about committing rape with her. Evidences collected by the prosecution were only on the basis of suspicion. Applicant is in custody since 31.05.2018 and trial will take some time. Therefore, he may be released on bail.

4. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
5. I have heard learned Counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that mother of the prosecutrix lodged report due to some enmity with the Applicant. The incident alleged to have happened on 17.05.2018 but the report has been lodged on 26.05.2018 without explaining the delay by giving sufficient and cogent reasons, he is in custody since 31.05.2018 and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release him on bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge