

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7196 of 2018**

Mukesh Kumar Nishad S/o Ramsagar Nishad Aged About 22 Years At Present R/o Radheyshyam Sharma Ki Sabji Badi Village- Khokhli, Police Station Bhatapara Gramin, Permanent Address - R/o Village - Sanjari Nawagao, Police Station Simga, District Revenue And Civil - Balodabazar - Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Bhatapara Gramin, District Revenue And Civil - Balodabazar - Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sumit Jhavar, Advocate
For the State	:	Shri R.K. Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**27/10/2018**

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. Perused the case diary provided by the counsel for the State in connection with the Crime No.164/2018 registered at Police Station Bhatapara Gramin, District Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC Section 04 & 06 of POCSO Act and Section 3(1), 12(2)(5) of Atrocity Act.
3. Case of the prosecution, in brief is that on 06/06/2018 prosecutrix was more than 16 years of age she is resident of village Machabhata, P.S. Bhatapara. She is member of Scheduled Tribe. Applicant is neither member of Scheduled Caste nor the Scheduled Tribe. On 06/06/2018 applicant took her and committed sexual intercourse on pretext of marriage.
4. Learned counsel for the applicant submits that he 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. He further submits that there is no antecedents against the applicant.
6. Looking to the above mentioned facts and circumstances of the case, looking to the photocopy of the statement of prosecutrix taken by the trial Court, 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.
7. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed. 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.
8. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge