

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7633 of 2018**

Raja @ Sohel Khan S/o Abdul Aziz Khan Aged About 21 Years R/o
Kumharpara Village Samabalpur, P. S. Bhanupratappur District North
Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through P. S. Bhanupratappur District North
Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri P.K. Tulsyan, Advocate
For the State	:	Shri S.K. Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**01/11/2018**

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 charge-sheet provided by the counsel for the applicant in connection with the Crime No.40/2018 registered at Police Station Bhanupratappur, District North Bastar Kanker (C.G.) for the offence punishable under Section 376, 120(B), 109 of IPC and Under Section 4 read with 17 of the POCSO Act.
3. Case of the prosecution, in brief is that on 20/03/2018 prosecutrix was more than 17 years old. She is resident of village chandni Chowk, Sambalpur. On 20/03/2018, the co-accused Himanshu @ Golu Manikpuri had taken her away by enticing and committed sexual intercourse with her in the house of applicant.
4. Learned counsel for the applicant submits that there is no criminal background. 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. As per the photocopy of the arrest memo of applicant which is part of the charge-sheet it has been mentioned that no antecedent has been reported against the applicant.
7. In the case in hand co-accused Himanshu @ Golu Manikpuri has already been enlarged on bail by this Court on 29/08/2018 in MCRC No. 5647 of 2018 the case of the applicant is less severe than co-accused who has been enlarged on bail.
8. Looking to the above mentioned 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 the benefit of Section 439 of the Cr.P.C. to the present applicant.
9. 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. 30,000/- 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.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge