

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 7649 of 2018**

Dhanesh Kumar, S/o Devsai, Aged About 20 Years, R/o Dhavalpur, Thana Jhagrakhand, District Koria, Chhattisgarh.

---- Applicant

**Versus**

The State of Chhattisgarh, Through Police Station Jhagrakhand, District Koriya, Chhattisgarh.

---- Non-Applicant

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For Applicant : Shri Parag Kotecha, Advocate.

For Non-Applicant/State : Shri Vaibhav A. Goverdhan, P. L.

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**Hon'ble Shri Justice Sanjay Agrawal****Order On Board****30.10.2018**

1. The applicant has filed this bail application under Section 439 of the Code of Criminal Procedure for grant of bail, as he is in custody since 13.06.2018 in connection with Crime No.40/2018, registered at Police Station Jhagrakhand, District Koriya (C. G.) for the offence punishable under Section 363, 366, 376(2)(n) of Indian Penal Code, 1860 (for short 'IPC') and under Section 4 and 6 of the Protection of Children from Sexual Offence Act, 2012 (for short 'POCSO').
2. The case of the prosecution is that on 27.02.2018, the applicant

came to the prosecutrix's school, who is below the age of 18 years and took her on the pretext that her mother is hospitalized and by way of such a false pretext committed sexual intercourse with her. Based upon the alleged incident an offence punishable under aforesaid sections has been registered against the applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the said crime. He submits further that after lodging a report on 28.02.2018 by the father of the prosecutrix, she never alleged as such anywhere against the applicant, which therefore, prima-facie shows that the applicant has been falsely implicated in the said crime. He submits further that as the applicant is in jail since 13.06.2018, therefore he may be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application and submits that on the date of incident the applicant took the prosecutrix on the false pretext that her mother is hospitalized and thereafter committed sexual intercourse with her on 27.02.2018 itself. According to him, the offence is serious in nature, and therefore, the application is liable to be rejected.
5. I have heard the learned counsel for the parties and perused the entire case diary carefully.
6. Having considered the facts and circumstances of the case, considering further the statement of prosecutrix recorded under Section 161 of Cr.P.C where she has alleged specifically that the

applicant has committed sexual intercourse with her on 27.02.2018 itself and that by considering further the age of the prosecutrix, I am not inclined to release the applicant on bail.

7. Accordingly, the bail application is rejected.

Sd/-  
**(Sanjay Agrawal)**  
Judge

Deepti Jha