

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 8093 of 2018**

Sunil Kumar Tiwari, S/o Jagdish Tiwari, aged about 24 years, R/o Jabdapara, near St. Xavier School, Police Station Sarkanda, Tahsil and District Bilaspur (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Takhatpur, District Bilaspur (CG). **---- Non-applicant**

For Applicant	: Mr. Dharmesh Shrivastava, Advocate.
For Non-applicant	: Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

16.11.2018

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.212/2018 registered at Police Station Takhatpur, District Bilaspur for the offence punishable under Sections 363, 366, 368, 376, 506 of IPC and Section 6 of Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief is that on 12.06.2018 the prosecutrix was below than 16 years. She is resident of village Chulghat Road, Takhatpur. There was a love affair between her and the applicant. On 12.06.2018 co-accused Manika Tiwari had given threatening to her, if she did not abscond with the applicant then she will kill her. Due to said threatening, she absconded with the applicant. They went to Puri, where he 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 reported against the applicant in police case diary.

6. In the statement of prosecutrix recorded under Section 161 of CrPC, no allegation has been made out against the applicant.

7. In the statement of prosecutrix recorded under Section 164 of CrPC in which she has stated that the applicant has not committed any wrong act in Puri with her.

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; 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. Consequently, the bail application is allowed.

9. 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.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-