

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8447 of 2018**

Sarfaraj S/o Shri Mohd. Usman Aged About 22 Years R/o Moiyar Para
Ward No. 06, Manendragarh District Korea Chhattisgarh, District :
Koriya (Baikunthpur), Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Manendragarh District Korea Chhattisgarh, District : Koriya
(Baikunthpur), Chhattisgarh.

---- Respondent

For the Applicant	:	Smt. Indira Tripathi, Advocate
For the State	:	Shri A.K. Swarnkar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

16/11/2018

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 case diary provided by the learned counsel for the State in connection with the Crime No.168/2018 registered at Police Station Manendragarh, District Korea (C.G.) for the offence punishable under Sections 342, 354(A)(1), 450, 201, 376(2)(N) of IPC and Section 4,6,8, 14 of POCSO Act.
3. Case of the prosecution, in brief is that in April 2017 prosecutrix was below 16 years of age. In April 2017 she had gone in the shop of the applicant who is the brother of her girlfriend. Applicant locked the door and molested her and made the video of incident. When she shouted then applicant left her. She has not narrated because of sham. Thereafter he committed repeatedly sexual intercourse with her giving threatening to viral the said video. On 01/06/2018 applicant compelled her to marry with him where being upset she narrated the incident to her parents. On 02/06/2018 she lodged the report in Police Station.
4. Learned counsel for the applicant submits that he has innocent and falsely implicated in the present case, therefore, he shall be released on bail.
5. On the other hand, counsel for the State opposes the bail application. He

further submits that no criminal antecedents against the applicant.

6. Counsel for the applicant further submitted that prosecutrix was consenting party. Applicant is ready to marry with her. She drew my attention on some paragraphs of the certified copy of the statement of the prosecutrix, decided by trial Court.
7. In the case in hand the prosecutrix is not turned total hostile. She has stated two types of statement in examination-in-chief she supported the prosecution and cross-examination she gave different version. What would be the effect of the statement of the prosecutrix it would be decided by the trial Court at the time of appreciation of evidence for the disposal of the case.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde