

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8923 of 2018**

- Akshay Kumar Mandavi S/o Sukman Mandavi Aged About 20 Years R/o Village Salhebhat P. S. Keshkal Revenue And Civil District Kondagaon Chhattisgarh, District : Kondagaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. Keshkal, District Kondagaon Chhattisgarh, District : Kondagaon, Chhattisgarh

---- Non-applicant

For Applicants	: Shri P.K. Tulsyan, Advocate.
For Non-applicant	: Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

05.12.2018

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 learned counsel for the State in connection with crime No. 21/2018 registered at Police Station – Keshkal, District Kondagaon (C.G.) for the offence punishable under Sections 376(2)(N) of the Indian Penal Code and Section 6 of the POCSO Act.
3. Case of the prosecution, in brief is that on 5.02.2017 prosecutrix was below 15 years of age. She is resident of village Salebhat. Since back 5.02.2017 onwards applicant committed repeated sexual intercourse with her on pretext of marriage. She has procured a child.
4. Learned counsel for the applicant submits that the applicant has no criminal background, he is innocent, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Counsel for the applicant further submitted that in the photocopy of the Adhaar card date of birth of the prosecutrix is mentioned as 01.01.1999, thus on 5.02.2017 she was more than 18 years old, prosecution has not referred the prosecutrix to radiologist.
7. As per the photocopy of the DNA report which is part of the bail petition applicant is not the father of the newly born baby.
8. Looking to the facts and circumstances of the case, as per the entire materials available on record, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.
9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE