

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 226 of 2019**

- Durgesh Kumar Nirmalkar S/o Shri Rameshwar Nirmalkar Aged About 22 Years R/o Village Ghursena, P. S. Nandghat, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. Nandghat, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh

---- Non-applicant

For Applicant	: Shri BL Dembra, Advocate.
For Non-applicant	: Shri Washim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

03.04.2019

1. The mother of the prosecutrix informant Smt. Lalita Bai is present in person.
2. After putting some questions, this Court is satisfied that the woman who is present before this Court is informant.
3. 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.
4. Perused the case diary provided by the learned counsel for the State in connection with crime No. 88/2018 registered at Police Station – Nandghat District - Bemetara (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and 5(ϐ), 6 of the POCSO Act.
5. Case of the prosecution, in brief is that on 27.02.2018 prosecutrix was below 16 years of age. She is resident of village Ghursena. There was love affair between her and applicant. On 27.02.2018 he took her by enticing on pretext of marriage in Banjari Temple. He put vermilion on her forehead, they performed marriage after exchange of garland, thereafter he committed repeated sexual intercourse with her.
6. Learned counsel for the applicant argued that the applicant has no criminal background, he is innocent, the medical report of the prosecutrix is negative, as per the report of radiologist her age is between 15 to 17 years, FIR was lodged against unknown person, as per the certified copy of the statement of the prosecutrix which is part of the bail application, prosecutrix had stated only that allegedly applicant had committed sexual intercourse with her, thus, he shall be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application, however, he submits that there is no antecedent against the applicant.
8. Informant Smt. Lalita Bai submitted that she has objection in releasing applicant on bail.
9. Looking to the facts and circumstances of the case, looking to the prima facie age of the prosecutrix specifically looking to this fact that on 27.02.2018 she was below 15 years of age, 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.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE