

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 364 of 2019**

- Ashvini Kumar Verma @ Chhotu Verma S/o Vijay Verma Aged About 27 Years R/o Bhadrapali ,police Station City Kotwali, Civil and Revenue District Baloda Bazar Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station City Kotwali Baloda Bazar Civil And Revenue District Baloda Bazar Bhatapara CG

---- Respondent

For applicant	Mr. Adil Minhaj, Adv.
For Respondent/State	Mr. S.R.J. Jaiswal, PL.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16-4-2019**

1. Informant is present in person. After putting some questions, this Court is satisfied that the person present is the informant.
2. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
3. The applicant has been arrested in connection with Crime No. 701/2018 registered in police station City Kotwali, Baloda Bazar, Distt. Baloda Bazar Bhatapara (CG) for offence punishable under Section 376, 511, 323 of IPC and Section 8 and 18 of the POCSO Act.
4. Perused the case diary.
5. Prosecution story in brief is that prosecutrix was below 11 years of age at the time of alleged incident. She is a resident of village Bhadrapali. On 8-11-2018 in the evening the applicant took the prosecutrix towards a pond of the village where he removed her underwear and underwear of himself also. He was touching her thigh. He was also touching her vagina. He was trying to insert his penis into her vagina. He also beat her. As per true copy of the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., she had stated that the applicant had removed her underwear and beat her.
6. Counsel for the applicant argued that the applicant is innocent and falsely implicated. He is in jail since 9-11-2018. MLC report is negative. As per statement of the prosecutrix recorded by the trial

Court, she did not support the prosecution case except removing of her underwear by the applicant. Counsel drew my attention on some paragraphs of cross-examination of the photocopy of the statement of prosecutrix recorded by the trial Court. He prayed that the applicant may be released on bail.

7. On the other hand, the State Counsel opposed the bail application. However he submits that no criminal antecedent of the applicant is reported in the police case diary.
8. The informant raised his objection in granting bail to the applicant.
9. As per photocopy of the statement of the prosecutrix she had stated in examination-in-chief that the applicant had removed her underwear and beat her. She had made some statements in favour of the applicant during cross-examination. At this stage, this Court cannot scrutinize or appreciate the evidence. What would be the effect of the statement of the prosecutrix recorded by the trial Court is subject matter of scrutiny of evidence which can be done by the trial Court.
10. Looking to the above mentioned facts and circumstances of the case, looking to the fact that at the time of alleged incident, the prosecutrix was below 16 years of age, looking to the seriousness of the alleged offence and also the impact of granting bail to the applicant on the society, this Court is not inclined to grant bail to the applicant.
11. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge