

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 663 of 2019**

Santosh Patel, S/o Vishram @ Chamra Patel, aged about 23 years, R/o Village Devasral, P.S. Sankra, Tahsil Pithora, District Mahasamund (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Police Station Sakra, District Mahasamund (CG).

---- Non-applicant

For Applicant	: Mr. Prasoon Agrawal, Advocate
For Non-applicant	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****24.04.2019**

1. Informant Pyare Lal is present in person before this Court. On putting some injuries, I am satisfied that the informant, who is present before this Court is the informant.
2. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
3. Perused the case diary provided by the counsel for the State in connection with Crime No.39/2018 registered in Police Station Sakra, District Mahasamund for the offence punishable under Sections 363, 366 and 376 of IPC and Section 4 of Prevention of Children from Sexual Offences Act.
4. The first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 30.11.2018 passed in M.Cr.C. No.8769/2018.
5. Case of the prosecution, in brief, is that on 10.03.2018 the prosecutrix was below 16 years of age. She is resident of village Samtemri. There was love affair between her and the applicant. On 10.03.2018, he took her by enticing on the pretext of marriage and, thereafter he committed sexual intercourse with her.
6. Counsel for the applicant submitted that the applicant has not committed any offence and has been falsely implicated in the present case and as such the applicant may be released on bail.
7. On the other hand, counsel for the State opposed the bail application. However, he submitted that previously no criminal antecedent is reported against the applicant in police case diary.
8. Informant Pyare Lal submitted that he has objection in releasing the applicant on bail.
9. In support of the case, counsel for the applicant drew my attention on paras 12 & 33 of photocopy of statement of prosecutrix, which is a part of bail application.
10. In the case in hand, prosecutrix is not totally hostile witness. She had made some statement against the applicant during examination-in-chief.
11. This is well settled legal position that while dealing with the bail application, this Court cannot touch the merit and demerit of the case. This Court can also not scrutinize or appreciate the evidence at this stage.
12. Looking to the facts and circumstances of the case and looking to

this fact that the prosecutrix was below 16 years of age at the time of incident, looking to seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant. Consequently, the bail application is rejected. However, the trial Court is directed to expedite the trial and conclude the case expeditiously preferably within a period of four months from the date of receipt of certified copy of this order.

13. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE

L/-