

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 673 of 2019**

Mukesh Hathile @ Mukku Hathile, S/o Shri Ram Awtar Hathile, aged about 20 years, (correct age of applicant is mentioned here), R/o Shanti Nagar Indrapuri, Ward No.12, Tifra, Police Station Civil Line, Bilaspur, District Bilaspur (CG).
---- Applicant

Versus

State of Chhattisgarh, through Station House Officer, Mahila Police Station Bilaspur, District Bilaspur (CG).
---- Non-applicant

For Applicant	: Mr. Mahendra Dubey, Advocate
For Non-applicant	: Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

14.02.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.51/2018 registered in Police Station Mahila Police Station Bilaspur, District Bilaspur for the offence punishable under Sections 376, 323/34 of Indian Penal Code and Sections 4 & 6 of Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief, is that on 14.10.2018 in the night, the prosecutrix had gone to see Dandiya Dance towards Maharana Pratap Chowk, when she was returning back to her house at about 2:00 a.m., the applicant and co-accused Komal Tonde reached near to her and the applicant committed sexual intercourse with her.
4. Counsel for the applicant submitted that the applicant has not committed any offence and has been falsely implicated in the case. He drew my attention on the statement of prosecutrix recorded under Section 164 of CrPC wherein she has stated that one boy had committed sexual intercourse with her. That boy left her in her house and also given his mobile number.
5. On the other hand, counsel for the State opposed the bail application, however, he submits that no criminal antecedent is reported against the applicant in police case diary.
6. In the statement of prosecutrix recorded under Section 164 of CrPC wherein she further stated that she telephoned the said boy as said by the police then that boy came and the police caught hold him.
7. Looking to the facts and circumstances of the case, looking to the 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.
8. Certified copy as per rules.

SD/-
 (Sharad Kumar Gupta)
JUDGE