

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 951 of 2019**

Faiz Ali Khan @ Sonu son of Mohd. Javed, aged about 19 years, resident of Tarabahra, Police Station Kelhari, District Koriya (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Kelhari, District Koriya (CG). **---- Non-applicant**

For Applicant	: Mr. Anil S. Pandey, Advocate
For Non-applicant	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

20.02.2019

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.82/2018 registered in Police Station Kelhari, District Koriya for the offence punishable under Sections 450 & 376 of Indian Penal Code.
3. Case of the prosecution, in brief, is that on 06.11.2018, the prosecutrix was more than 18 years of age. She is a resident of village Tarabahra. On 06.11.2018 at about 12:30 p.m., the applicant entered in her house and caught hold her and pressed her mouth and committed forcibly 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 further submitted that prosecutrix was a consenting party and in her statement recorded under Section 161 of CrPC it has not been mentioned that force was used.
5. On the other hand, counsel for the State opposed the bail application, however, he submitted that no criminal antecedent is reported against the applicant in police case diary.
6. As per MLC report, Doctor opined that sign of sexual intercourse is present.
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