

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1072 of 2019**

1. Farasuram, S/o Gadaru Mandavi, aged about 22 years.
 2. Laxman Kashyap, S/o Dole aged about 21 years.
- Both are R/o village Madabhata, Para Taraibeda, P.S. Makdi District Kondagaon (CG).

---- Applicants**Versus**

State of Chhattisgarh, through Police Station Makdi, District Kondgaon (CG).

---- Non-applicant

For Applicants	: Mr. Pravin Kumar Tulsyan, Advocate
For Non-applicant	: Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

13.05.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.27/2018 registered in Police Station Makdi, District Kondagaon for the offence punishable under Sections 363, 366, 376, 323, 506, 342/109 of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief, is that on 04.08.2018, the prosecutrix was below 14 years of age. She is resident of village Taraibeda. On 04.08.2018 the applicant and co-accused Piso and Bhadu took her forcefully in the house of co-accused Piso. The applicants and the said co-accused closed the door from outside. Co-accused Piso committed forcefully sexual intercourse with her. On the next day, applicants and the said co-accused beat the father and brother of the prosecutrix by hands and fists and wooden club.
4. Counsel for the applicants submitted that the applicants have not committed any offence and have been falsely implicated in the case and as such the applicants may be released on bail.
5. On the other hand, counsel for the State opposed the bail application. However, he submits that no criminal antecedent is reported against the applicants in police case diary.
6. On 02.05.2019, Informant-Smt. Anjani Kawasi was appeared before this Court and submitted that applicant may not be released on bail.
7. *Prima facie* it cannot be said that Section 366 of IPC does not attract in the case in hand.
8. Looking to the above mentioned facts and circumstances of the case, looking to this fact that at the time of alleged incident the age of the prosecutrix was below 14 years of age, looking to the seriousness of the offence and looking to the impact of granting bail to the applicants on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicants.
9. Consequently, the bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE