

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1098 of 2019**

Santlal Basor @ Chidkan son of Sadhram Basor, aged about 32 years, R/o Dalabakra, Police Station Jhilmili, District Surajpur (CG). **---- Applicant**

Versus

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

For Applicant	: Ms. Aprajita Gayakwad, Advocate
For Non-applicant	: Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****02.04.2019**

1. Prosecutrix is present in person before this Court. On pulling some injuries, I am satisfied that a girl, who is present before this Court is an informant/prosecutrix.
2. This is first 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.107/2018 registered in Police Station Jhilmili, District Surajpur for the offence punishable under Sections 376 of IPC and Section 4 of POCSO Act.
4. Case of the prosecution, in brief, is that on 07.07.2018, the prosecutrix was below 13 years of age. On 07.07.2018 at about 10:00 p.m. at village Dalabakra, the applicant committed sexual intercourse with her.
5. Counsel for the applicant submitted that the applicant has not committed any offence and has been falsely implicated in the present case. In support of her case, she drew my attention on Court's question of certified copy of statement of prosecutrix recorded by the trial Court on 15.01.2019, which is a part of the bail application.
6. 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.
7. Informant/prosecutrix submitted that she has no objection for releasing the applicant on bail.
8. The aforesaid certified copy of statement of prosecutrix reveals that prosecutrix has stated two types of statement, one in favour of prosecution and another in favour of the applicant. Thus, what would be effect of statement of prosecutrix may be considered by the trial Court at the time of appreciation of evidence. At this stage, this Court cannot scrutinize the evidence.
9. Looking to the facts and circumstances of the case and considering the totality of the evidence, 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.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE