

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1839 of 2019**

Kapil Giri @ Chandan Baba, S/o Jhakhad Giri, aged about 45 years, R/o Village Turiyabira, P.S. Lundra, District Surguja (CG). **---- Applicant**

Versus

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

For Applicant	: Mr. Sanjay Pathak, Advocate
For Non-applicant	: Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****21.06.2019**

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.119/2018 registered in Police Station Batauli, District Surguja for the offence punishable under Sections 376 of IPC and Section 3 (2-5) of ST, SC (Prevention of Atrocities) Act.
3. Case of the prosecution, in brief, is that the prosecutrix is a member of Scheduled Tribe, resident of village Kalipur. On 20.10.2018 the applicant 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 in the case in hand there is a delay of 41 days in lodging FIR. The prosecutrix was a consenting party and as such the applicant may be released on bail.
5. On the other hand, counsel for the State opposed the bail application. However, he submitted that there is no criminal antecedent against the applicant is reported in police case diary.
6. 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.
7. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE