

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2617 of 2019**

1. Arvind Narang, S/o Rikhiram, aged about 19 years.
 2. Anil @ Poklu Narang, S/o Rikhiram, aged about 25 years.
- Both are resident of Mini Basti, Police Station Civil Line, Civil and Revenue District Bilaspur (CG). **---- Applicants**

Versus

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

For Applicants	: Mr. Devesh G Kela, Advocate
For Non-applicant	: Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

16.05.2019

1. Informant Smt. Godavari Banjare is absent, though notice has been served upon her.
2. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
3. Perused the case diary provided by the counsel for the State in connection with Crime No.09/2019 registered in Police Station Mahila Police Station Bilaspur for the offence punishable under Sections 363(D) (A), 363(B) (2), 366(A), 506, 376 of IPC and Sections 3 & 4 of POCSO.
4. Case of the prosecution, in brief, is that on 17.02.2019 the prosecutrix was below 16 years of age. She is resident of Mini Basti, Bilaspur. On 17.02.2019 at about 2:00 am applicants and co-accused Rajendra Kurre took her after pressing her mouth in the house of applicant No.1-Arvind Narang. Thereafter, applicants left her in the said house and co-accused Rajendra Kurre was inside in the house and the present applicants locked the door from outside and went from there. Co-accused Rajendra Kurre committed forcibly sexual intercourse with her. After some time, applicants reached there and opened the door.
5. Counsel for the applicants submitted that the applicants have not committed any offence and have been falsely implicated in the case. He further submitted that there is delay of 09 days in lodging FIR. In the spot map, presence of applicants is not marked and medical evidence does not support the prosecution case. There was love affairs between the prosecutrix and co-accused Rajendra Kurre and as such the applicant may be released on bail.
6. On the other hand, counsel for the State opposed the bail application.
7. Counsel for the applicant in support of his case, he drew my attention on statement of prosecutrix wherein it has been mentioned that co-accused Rajendra Kurre was inside in the house.
8. Looking to the above mentioned facts and circumstances of the case, *prima facie* looking to evidence material available on record against the applicants, looking to this fact that at the time of alleged incident the prosecutrix was below 16 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