

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4466 of 2019**

Ajeet Kerketta son of Silbanus Kerketta, aged about 32 years, R/o Khatanga, Police Station Duldula, District Jashpur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Kunkuri, District Jashpur (CG).

---- Non-applicant

For Applicant	: Mr. Manoj Chauhan, Advocate
For Non-applicant	: Mr. Praveen Shrivastava, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

25.09.2019

1. Informant Jagdev Ram Nagesiya is absent, though notice has been served upon him on 01.09.2019.
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.127/2016 registered in Police Station Kunkuri, District Jashpur for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Sections 4 & 6 of Protection of Children from Sexual Offences Act.
4. Case of the prosecution, in brief, is that on 12.06.2016, the prosecutrix was below 14 years of age. She is a resident of village Kadamkachhar. On 12.06.2016 the applicant took her by enticing and committed repeatedly 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. He further submitted that prosecutrix was a consenting party. He drew my attention on paragraphs No.6 & 9 of certified copy of statement of prosecutrix.

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 as per police case diary.
7. This is well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. Only the trial Court is a competent to do so.
8. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicant and looking to this fact that on 12.06.2016 the prosecutrix was below 16 years of age, looking to 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.
9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE

L/-