

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 8751 of 2018**

Umashankar @ Om S/o Rajendra Kumar Jangde, aged about 19 years, R/o Jhara, Police Khallari, District Mahasamund, present address Bajaj Mitti Khadan Ravanbhata, Mandirhasoud, Raipur, District Raipur (CG). **---- Applicant**

Versus

State of Chhattisgarh, through Police Station Mandirhasoud, District Raipur (CG). **---- Non-applicant**

For Applicant	: Mr. Amarnath Pandey, Advocate
For Non-applicant	: Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

21.01.2019

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.164/2018 registered in Police Station Mandirhasoud, District Raipur for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Sections 4, 8, 12 of Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief, is that on 17.05.2018 the age of prosecutrix was below than 15 years. She is a resident of village Mandirhasoud. Prior to 08 months of her statement recorded under Section 161 of CrPC, the applicant committed forcible sexual intercourse with her. On 17.05.2018 at near the salvaged and scrap shop of Sandeep, the applicant took her by pulling to village Jhaara and he committed 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 MLC report does not support the prosecution case; and in support of his case, he drew my attention on paragraphs No.5 & 6 of photocopy of statement of prosecutrix recorded under Section 164 of CrPC.
5. On the other hand, counsel for the State opposed the prayer for grant of bail to the applicant however he submitted that no criminal antecedent

reported against the applicant in police case diary.

6. If medical report has not supported the prosecution case, then it cannot be said that *prima facie* prosecution case is false.
7. Looking to the above mentioned facts and circumstances of the case, *prima facie* looking to the age of prosecutrix and 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.
8. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-