

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 9190 of 2018**

1. Rameshwar S/o Naresh Kanwar Aged About 22 Years
2. Manbodh S/o Birchha Kenwat Aged About 22 Years
3. Lavkesh @ Lokesh S/o Sangram Singh Kanwar Aged About 23 Years
4. Divyansh S/o Sangram Kanwar Aged About 21 Years,

All are R/o Village Amgasi, Police Station Lakhanpur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Lakhanpur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

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|--------------------|---|--------------------------------|
| For the Applicants | : | Shri S.R. Sinha, Advocate      |
| For the State      | : | Shri SRJ Jaiswal, Panel Lawyer |

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**Hon'ble Shri Justice Sharad Kumar Gupta**

**Order On Board****04/04/2019**

1. Informant Geeta Bai Dewangan absent though notice has been served upon her.
2. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.128/2018 registered at Police Station Lakhanpur, District Surguja (C.G.) for the offence punishable under Sections 323, 506, 363, 366, 376(D) of IPC & 4,5,5m/6 of POCSO Act.
4. Case of the prosecution, in brief is that prosecutrix was below 15 years of age on 01/08/2018. She is resident of Gandhi Nagar Ambikapur. On 01/08/2018 at about 18.02 hours, at village Nawapara, applicant Rameshwar and four other unknown persons took prosecutrix towards bushes where applicant Rameshwar and four other unknown persons committed forcible sexual intercourse with her one by one. As per Test Identification Parade prosecutrix identified applicants and co-accused Ajit Singh.
5. Learned counsel for the applicants submits that they are innocent and falsely implicated in the present case, therefore, they shall be released on bail.
6. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicants.

7. Counsel for the applicants further submitted that there is a overwriting in date of birth of the prosecutrix in Dakhil-Kharij Register. He further submitted that the memorandum of Test Identification Parade reveals that last column regarding particulars is typed, due to these circumstances prosecution story become improbable, thus they may be released on bail.
8. Aforesaid facts raised by counsel for the applicants are the subject matter of the scrutiny which would be considered by the trial Court during appreciation of the evidence for the purpose of the disposal of the case. At this stage, this Court cannot appreciate the evidence.
9. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicants on society, the present bail application is rejected.

**Sd/-**  
**(Sharad Kumar Gupta)**  
Judge

Kamde