

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 9692 of 2018**

Mukesh Chaudhary, S/o Chunnu Chaudhary, aged about 27 years, R/o Shahbad, Daulatpur, Kuredaan Gali No.2, P.S. Kelkhashah, Delhi at present R/o STR Colony, B-16, Ward No.14, P.S. Kumhari (As per arrest memo), District Durg (CG).
---- Applicant

Versus

State of Chhattisgarh, through District Magistrate, Durg, District Durg (CG).
---- Non-applicant

For Applicant	: Mr. B.P. Singh, Advocate.
For Non-applicant	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

15.01.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the counsel for the State in connection with crime No.02/2017 registered at Police Station Kumhari, District Durg for the offence punishable under Sections 363, 366, 376 of IPC and Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief is that on 30.12.2016, the age of prosecutrix was more than 17 year. She is a resident of village Talabpaar Kumhari. On 30.12.2016, she and applicant performed the marriage in Mahamaya Temple, Kumhari and, thereafter, they went to Delhi. He committed repeatedly sexual intercourse with her.
4. Counsel for the applicant submits that the applicant has not committed any offence. He is innocent and has been falsely implicated in the present case, therefore, he may be released on bail.
5. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicant. He further submits that no criminal antecedent is reported against the applicant in police case diary.
6. As per enclosed photocopy of statement of prosecutrix recorded under Section 164 of CrPC in which she has stated that she wants to live with the applicant and the legal proceeding may be dropped.

7. Looking to these facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence; and the trial is likely to take some more time for its final disposal, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant. Accordingly, the bail application is allowed.

8. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he shall appear before the Trial Court at 11:00 am as and when directed till trial and he would co-operate during the trial, he shall be released on bail.

9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)

JUDGE

L/-