

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 9795 of 2018**

Sanjay Choubey, S/o Basant Choubey, aged about 22 years, R/o Sohaga Junapara,
P.S. Darima, District Surguja (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Darima, District Surguja (CG).

---- Non-applicant

For Applicant	: Mr. Jitendra Shrivastava, Advocate.
For Non-applicant	: Mr. Ashutosh Pandey, Panel Lawyer
For Informant	: Mr. Vivek Shrivastava, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****25.03.2019**

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.104/2018 registered at Police Station Darima, District Surguja for the offence punishable under Sections 363, 366 & 376(2)(e) of IPC and Section 5(e)/6 of Protection of Children from Sexual Offences Act.
3. Case of the prosecution, in brief is that on 23.09.2018 the prosecutrix was below 15 years of age. She is a resident of village Sohaga. On 23.09.2018 the applicant took her by enticing on the pretext of marriage and 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 bail application.
6. Counsel for the Informant submits that the informant has no objection if the applicant is released on bail.
7. As per true copy of statement of the prosecutrix recorded under Section 164 of CrPC wherein she had stated that the applicant had not committed any wrong act with her.
8. As per certified copy of statement of prosecutrix recorded by the trial Court on 15.02.2019, she had stated that she had gone to her friend's house

without intimating to anyone and she had not stated anything against the applicant.

9. 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.

10. 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.

11. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE

L/-