

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9886 of 2018**

- Suraj Soni S/o Ramdev Soni Aged About 22 Years R/o Sector-8, Road-48, Quarter No. 2/a, Servant Quarter Bhilai Nagar, Tahsil And District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Bhilai Nagar, District Durg Chhattisgarh

---- Non Applicant

For the Applicants	:	Shri Sanjay K. Agrawal, Advocate
For the State	:	Shri Vikram Dixit, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****02.04.2019**

1. Informant Smt. Meena Vishwakarma is absent, though notice has been served.
2. This is the 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.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.428/2018 registered at Police Station- Bhilai Nagar, District- Durg (C.G.) for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Section 3, 4 of Protection of Children from Sexual Offences Act, 2012.
4. Case of the prosecution, in brief is that in the month of August 2016, prosecutrix was below 16 years of age. She is resident of Sector- 9 Bhilai. In August 2016 applicant committed forcible sexual intercourse with her. On 03.10.2018 applicant took her by enticing on pretext of the marriage and committed sexual intercourse with her on pretext of the marriage.
5. Learned counsel for the applicant submits that applicant has no criminal background, he is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that as per the statement of the prosecutrix applicant committed sexual intercourse with her on pretext of the marriage he further submits that no antecedent against the applicant.
7. Counsel for the applicant further submits that as per the statement of the prosecutrix recorded under Section 161 CrPC there was the love affair between prosecutrix and applicant, she was not going her house due to fear, her mother had lodged the report, as per the statement of the prosecutrix recorded under Section 164 CrPC she wants to marry applicant.
8. Looking to the facts and circumstances of the case, looking to this fact that prosecutrix was below 16 years of age in August 2016, looking to the totality of the facts, this Court is not inclined to get benefit of Section 439 CrPC to the applicant, consequently, the present bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul