

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 10040 of 2018**

- Hemant Devdas S/o Shri Jagannath Devdas Aged About 20 Years R/o Village Bohardih, Out Post- Gidhpuri, Police Station Palari, District Balodabazar- Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Palari District Balodabazaar- Bhatapara Chhattisgarh.

---- Respondent

For applicant	Mr. Anchal Kumar Matre, Adv.
For Respondent/State	Mr. Vasim Miyan, PL
Informant with	Shri Utkal Pradhan, Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****5-3-2019**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 227/2018 registered in police station Palari, Distt. Baloda Bazar (CG) for offence punishable under Section 376 of IPC, Section 4 of POCSO Act.
3. Perused the case diary.
4. Prosecution story in brief is that on 3-5-2018, prosecutrix was below 11 years of age. She is a resident of Bohardih. On 3-5-2018 at about 18.30 hour at village Bohardih, the applicant took her by pressing her mouth to a shamble and committed forcible intercourse with her.
5. Counsel for the applicant argued that the applicant is innocent and falsely implicated. He drew my attention on para 4 and 5 of certified copy of statement of P.W. 3 informant and para 4 of P.W. 4 Prosecutrix. He further submitted that identity of the perpetrator is highly dubious. Thus, he may be released on bail.
6. On the other hand, the Panel Lawyer appearing for the State and Shri Utkal Pradhan, Adv. appearing for the informant opposed the bail application.

7. It is well settled law that while deciding bail application, the Court cannot consider merits and demerits of the case. P.W. 3 informant and P.W. 4 Prosecutrix have not totally turned hostile. At this stage, appreciation of evidence is not permitted.
8. Looking to the above facts and circumstances of the case, looking to the seriousness of the alleged offence and also the impact of granting bail on the society, this Court is not inclined to grant bail to the applicant.
9. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge