

(2018) 04 CHH CK 0188
In the Chhattisgarh High Court
Case No : M.Cr.C. No. 722 of 2018

Dhanaru Shori And Anr.

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 16-04-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 366, 376
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2018) 04 CHH CK 0188

Hon'ble Judges : SANJAY K. AGRAWAL, J

Bench : Single Bench

Advocate : Raja Ali, D. R. Minj, Chandradeep Prasad

Final Decision : Dismissed

Judgement

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.76/2016, registered at Police Station-Farasgaon, District Kondagaon (C.G.) for the offence punishable under Sections 363, 366 and 376 of Indian Penal Code and Section 6 of the POCSO Act.
2. Case of the prosecution, in brief, is that on 01.09.2016, the present applicant abducted the prosecutrix and committed sexual intercourse with her and thereby committed the aforesaid offence.
3. Learned counsel for the applicant would submit that the prosecutrix was major on the date of incident being her date of birth 23.03.1998 and she has entered into marriage with the accused / applicant and the applicant has falsely been implicated in crime in question. He would also submit that the

applicant is in jail since 26.07.201, charge-sheet has already been filed, and no useful purpose will be served by detaining him in jail, therefore, he may be released on regular bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submits that in the Dakhil-Kharij register her date of birth is mentioned as 02.02.2002 and as such the prosecutrix was minor at the time of incident and, therefore, no bail can be granted to the applicant.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts & circumstances of the case; further taking into consideration the nature & gravity of the offence; role of the present applicant; and the statement of the prosecutrix, this Court is not inclined to release the applicant on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is hereby rejected.

8. However, the trial Court is directed to expedite the trial.