

(2018) 04 CHH CK 0161
In the Chhattisgarh High Court
Case No : MCRC No. 1549 of 2018

Smt. Geeta Tiwari

APPELLANT

Vs

Smt. Shanti Dhruwe

RESPONDENT

Date of Decision : 13-04-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 363, 366A, 376
Protection of Children from Sexual Offences Act, 2012 — Section 4, 6

Citation : (2018) 04 CHH CK 0161

Hon'ble Judges : SHARAD KUMAR GUPTA, J

Bench : Single Bench

Advocate : Abhishek Saraf, R.K. Gupta

Final Decision : Allowed

Judgement

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. Perused the copy of the charge sheet produced by counsel for the applicant in connection with Crime No. 230/2016 registered in police station

Kharsia, Distt. Raigarh (CG) for offence punishable under Sections 363, 366A, 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of

Children from Sexual Offences Act and also heard counsel for the parties.

3. Prosecution story in brief is that prosecutrix is resident of Jawahar Colony, Kharsia. Her date of birth is 5-10-2000. On 7-6-2016, the applicant took

her away from the custody of her guardian to Delhi. He committed sexual intercourse with her.

4. Counsel for the applicant argued that the applicant is innocent and falsely

implicated hence he be released on bail.

5. On the other hand, the Dy. Adv. General appearing for the State opposed the bail application.

6. As per the statement of Section 164 of the Cr.P.C. the prosecutrix had love affairs with the applicant. She had left her parental house voluntarily.

The applicant had not taken her away forcibly. She had told the applicant that if he does not take her with him, then she will commit suicide by cutting

veins of hand by blade. She and the applicant performed marriage on 4-11-2017 and procured a child. The applicant and the prosecutrix live like

husband and wife. Looking to these circumstances, looking to the fact that the applicant is in custody from 22-1-2018 and the fact that trial may take

time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.

7. Consequently, the application is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/-along with one

personal bond of the like sum to the satisfaction of the Court concerned with the condition that he will appear before the concerned trial Court at 11

AM as and when directed till trial, he be released on bail.

8. CC as per rules.