

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M. Cr. C. No. 5122 OF 2015**

Jailal Rathia son of Sanyasi Rathia, aged about 25 years, R/o Village Bakaruma, Police Chowki Rairuma, P.S. and Tahsil Dharamjaigarh, District Raigarh (C.G.)

---Applicant

Versus

State of Chhattisgarh, Through The Station House Officer, P.S. Kapu, District Raigarh (C.G.)

---Non-applicant

For Applicant	:	Mr. Shivendra Bhardwaj, Advocate
For Non-applicant	:	Mr. Varun Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****28/09/2015**

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. 35/2015, registered at Police Station Kapu, District Raigarh (C.G.), for the offence punishable under Section 376 of Indian Penal Code.

2. Case of the prosecution, in brief, is that, applicant is alleged to have committed forcible intercourse with the prosecutrix one year prior to lodgment of FIR i.e. 10/05/2015.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and has been falsely implicated in offence in question. He would further submit that prosecutrix is major and consenting party aged about 22 years. He would further submit that FIR is delayed by

one year and there is no medical evidence. He would further submit that prosecutrix given birth to the applicant's daughter and prosecutrix is residing with the applicant on his house. He would further submit that no custodial interrogation is required and no useful purpose would be served by keeping applicant in jail. He would lastly submit that charge sheet has been filed and applicant is in jail since 11/05/2015 therefore, he may be released on bail.

4. On the other hand, learned counsel for the State would oppose the bail application.

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

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; role of the present applicant in offence in question; age of the prosecutrix; charge sheet has already been filed and applicant is in jail since 11/05/2015, this Court is of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

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

8. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the trial Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE