

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7226 of 2017**

Shivnarayan Yadav S/o Badri Yadav, Aged About 20 Years Caste Aheer, R/o Belwar Bhadiya, Police Chowki Pandrapath, Police Station Bagicha, District Jashpur, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through the In-Charge, Police Chowki Pandrapath, Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Respondent

For the Applicant : Shri J.K. Saxena, Advocate.

For the Respondent/State : Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.12.2017**

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. 120 of 2017, registered at Police Chowki-Pandrapath, Police Station – Bagicha, District Jashpur, Chhattisgarh for the offence punishable under Section 376 of the Indian Penal Code, Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 16.7.2017 and he has been falsely implicated in this case. No case is made out against the applicant and presently, the case is before the trial Court. On the date of incident, the prosecutrix was major and as per her

own statement she accompanied the applicant willingly in presence of her husband and other members of the family which shows that the applicant has been falsely implicated in this case and the trial of the case is likely to take some time for its final disposal. Hence, it is prayed that the applicant be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix was below 18 years on the date of incident as per the school records and there is a clear and categoric statement made by the prosecutrix against the applicant about the offence committed. Hence, the applicant is not entitled for grant of bail.

5. Heard counsel for both the parties and perused the case diary.

6. The case against the applicant is that on the date of incident the prosecutrix had some quarrel with her husband, she left her matrimonial home for going to her paternal home. She asked the applicant to give her lift. The applicant agreed to give lift, while traveling on his motorcycle, he stopped motorcycle in between and then forcefully committed rape with the prosecutrix. As it is alleged in the FIR, the date of incident is 21.6.2017 whereas the FIR was lodged on 15.7.2017. The reason for delay in lodging FIR has been explained stating that when the husband and her in-laws came to take back the complainant/ prosecutrix then she narrated them about the incident that took place and thereafter, the FIR was lodged.

7. Considering all the submissions and the contents of the case-diary and also the present state of things i.e. the charge-sheet has been filed, the applicant is in jail since 16.7.2017 and no purpose would be served if the applicant is kept in detention for the whole period of trial, this application is allowed.

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

9. It is directed that the 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 concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge