

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4503 of 2017**

Pawan Singh @ Pamma Singh Amritdhari, aged about 40 years, S/o. Shri Bhuvtar Singh, R/o. Village - Gago Buha, Police Station – Chumghal, District – Tarantaaran (Punjab). At present House No. LIG 213, Veer Savarkar Nagar, Heerapur Tatibandh, Police Station - Kabir Nagar, Raipur (C.G.)

---- Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station -Kabir Nagar, Raipur, District -Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Y.C. Sharma, Advocate

For Respondent/State : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**06/12/2017**

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.45/2016, registered at Police Station – Kabir Nagar, Raipur, District – Raipur (C.G.) for the offence punishable under Section 376 (d), 342/34 of the Indian Penal Code and Section 4, 6 of Protection of Children from Sexual Offences Act.

2. It is submitted by the learned counsel for the applicant that applicant is innocent and has been falsely implicated in this case. The fact behind the case is that the prosecutrix and the co-accused -Jaswant Singh had love affair and on the date of incident, they were having illicit relationship, when they were caught red handed by the members of the society. Prosecutrix had made a complaint on 28.05.2016, the day after the date of incident, in which she has not named the applicant as one of the culprits, although the name of the applicant is mentioned in the FIR but again prosecutrix has omitted to mention his name in the statement under Section 161 of Cr.P.C., hence for these reasons it is clear that the case against the applicant is concocted and deliberate. It is also submitted that the incident took place on 27.05.2016 but the FIR has been lodged on 04.06.2016 and the delay has not been explained, hence for this reasons, it is prayed that the applicant may be enlarged on bail.
3. 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 delay has been properly explained by the prosecutrix and further the statement of the prosecutrix in FIR and in her statement under Section 164 of Cr.P.C. is clear and categorical against the applicant that he has been party to the offence of gang rape. Hence the applicant is not entitled to be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The facts of the case are that on 27.05.2016, co-accused Jaswant Singh was alone in his house, who asked the prosecutrix to bring food

for him. Prosecutrix took food for Jaswant Singh to his house at that time Jaswant Singh closed the door, he and applicant both who were present on the spot forcefully committed gang rape with the prosecutrix. Age of the prosecutrix as per investigation is 16 years and five months. Hence, the case has been registered against the applicants.

6. Considering the submissions made and the contents of the case diary, I am of this considered opinion that this is not a fit case, where the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge