

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6016 of 2017**

Makardhwaj S/o Late Jugeshar Nayak Aged About 35 Years R/o Village Salapara, District Balangir, P.S. Sindekala, Sandivision (Odisha), At Present Sivaji Nagar, Chandrama Chowk, Khursipar, P.S. Khursipar, District Durg Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Office, Police Station Khursipar, District Durg Chhattisgarh

---- Respondent

For the Applicant	:	Shri Jitendra Gupta, Advocate.
For the Respondent/State	:	Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.11.2017**

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.72 of 2017, registered at Police Station – Khursipar, District – Durg, Chhattisgarh for the offence punishable under Sections 354, 376/ 511 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 15.03.2017. The applicant is innocent and has been falsely implicated in this case. It is submitted that earlier the FIR was recorded on 13.3.2017 only under Section 354 of the IPC, whereas the offence under Section 376 read with Section 511 of the IPC was added later on without any basis. The applicant is a local resident and there is no likelihood of his absconding. The case has been investigated and the charge-sheet has been filed. 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.

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 victim in this case, though aged about 18 years, was a person of unsound mind and has alleged that the applicant abused and outraged her modesty and also tried to commit rape with her. Hence, for this reason, he is not entitled for grant of bail.

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

5. As per the case against the applicant, the victim/ prosecutrix is a mentally retarded person. On the date of incident, the applicant had disrobed the victim and was attempting to have sexual intercourse with her, who was caught on the spot by the witnesses and the case was reported which has been investigated and the charge-sheet has been filed.

6. Considering the submissions made and the contents of the case diary particularly the medical report of the prosecutrix/ victim, I am of the considered view that the applicant is entitled for grant of bail.

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

8. 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 local 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