

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 6017 of 2017**

Rustam Aalam S/o Idrish Khan, Aged About 25 Years R/o 15 Block,  
Jharanapara Chowki, C S E B Korba, District Korba, Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through Station House Officer, Aa.Jaa.Ka.  
Korba, District Korba, Chhattisgarh.

**---- Respondent**


---

|                          |   |                                      |
|--------------------------|---|--------------------------------------|
| For the Applicant        | : | Shri Jitendra Shrivastava, 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.07 of 2017, registered at Police Station – Aa.Jaa.Ka. Korba, District – Korba, Chhattisgarh for the offence punishable under Section 376 of the Indian Penal Code and Sections 3(1)(12) and 3(2)(5) 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 20.04.2017 and has been falsely implicated by the prosecutrix in this case. The prosecutrix has been habitual of lodging FIR against the applicant and his family members. On an earlier complaint made by the prosecutrix, a case was registered and the applicant and his family members were prosecuted for the offences under Sections 452, 294, 323 and 354/ 34 of the

Indian Penal code and Section 8 of the Protection of Children from Sexual Offences Act, 2012. The date of incident in that case was shown to be 25.2.2014. In the present case, the prosecutrix has mentioned the date of incident as starting from 1.1.2013 and ending on 31.12.2013 and the FIR was lodged on 19.4.2017 after due deliberations. The prosecutrix is a major aged about 20 years 9 months as per the school register seized in the case. Hence, for these reasons, 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 statement of the prosecutrix is clear and categoric against the applicant that the incident of sexual intercourse with the prosecutrix started when she was minor. Hence, in this situation, offence of rape has been committed because of which, the applicant 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, since 2013 when the prosecutrix was minor, she submitted herself to the sexual intercourse with the applicant on assurances being given by him that he will marry her. Being a minor, at that relevant point of time, the offence of rape has been committed by the applicant. Thereafter, on refusal of the applicant to marry the prosecutrix, the FIR has been lodged.

6. Considering the submissions made and the contents of the case diary

particularly the statement of the prosecutrix in this case and the fact that earlier also on a complaint made by her, prosecution against the applicant and his family members was initiated, this is a fit case and 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 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