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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6072 of 2017**

Nand Kumar Sahu S/o Late Shri Deenuram, Aged About 28 Years R/o Village Lal Bahadur Nagar, Police Station Chhuria, Out Post Chichola, Civil & Revenue District Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Chhuria, Out Post Chichola, Civil & Revenue District Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri Keshav Dewangan, Advocate.

For the Respondent/State : Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.11.2017**

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.89 of 2017, registered at Police Station – Churia, Chichola, District – Rajnandgaon, Chhattisgarh for the offence punishable under Sections 456, 354, 376, 294, 506, 450, 363 and 366 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 02.06.2017 and the applicant has been falsely implicated in this case. It is submitted by counsel for the applicant that the applicant and the prosecutrix in this case had love affair on account of which they were having physical relationship on the basis of the consent. As per the FIR, the incident started four years prior to the date of recording FIR i.e. 31.5.2017. It

is further submitted that the prosecutrix has filed application for compounding offence in this case giving a statement that she was forced by her family members to lodge FIR against the applicant but the same was not considered by the trial Court and the application was rejected. 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 prosecutrix was a minor when the incident of sexual assault started four years prior to the date of lodging FIR. Hence, for these reasons, 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 of the prosecution, four years prior to the lodging of FIR when the prosecutrix was alone in her residence, the applicant came to her and by using force had sexual intercourse with her without her willingness and consent. Thereafter, such acts continued and the applicant gave assurance that he will marry the prosecutrix. Prior to lodging FIR, the prosecutrix left her house and was residing with the applicant for three years in a place. Thereafter, the family members of the prosecutrix took her back and FIR was lodged against the applicant.

6. Considering the submissions made and the contents of the case diary, I am of the considered view that this is a fit case to release the applicant on 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