

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 534 of 2018**

Devcharan Verma S/o Vedram Verma Aged About 53 Years R/o Ayodhya Para, Barbanda, P. S. Vidhan Sabha District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through P. S. Vidhan Sabha, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Keshav Dewangan, Advocate.
For the Respondent/State : Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.04.2018**

Heard.

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.132 of 2017, registered at Police Station – Vidhan Sabha, Raipur, District – Raipur, Chhattisgarh for the offence punishable under Section 376(2)(tha) of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 22.6.2017 and he has been falsely implicated in this case. After completion of investigation, the charge-sheet has been filed. The main material witnesses have been examined. The prosecutrix herself has not made any statement whereas, the eye-witnesses of this case have been

declared hostile and they have not supported the case of the prosecution. 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 in this case is a mentally unsound woman hence, it is a heinous crime that has been committed by this applicant. 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. According to the prosecution case, on the date of incident eye-witnesses, namely, Santosh Banjare and Samay Lal Tandon witnessed the incident in which the applicant was sexually exploiting the prosecutrix who is a woman of unsound mind and incapable of giving consent. FIR was lodged by witness – Samay Lal Tandon and on that basis, the case has been registered against the applicant.

6. Perused the certified copy of the statements of Santosh Banjare (PW-2) and Samay Lal Tandon (PW-3). Both these witnesses have not supported the prosecution case because of which, they have been declared hostile. Also perused the statement of the prosecutrix herself who has not been able to give any statement before the Court making any allegation against the applicant. Apart from that, there appears to be no other material witness present in this case. Hence, looking to the development that has taken place in this case, I am of the view that this is 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 allowed.

8. It is directed that applicant shall be released on bail on his 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