

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 8116 of 2017**

- Tulsi Gupta S/o Chandrika Gupta, Aged About 38 Years, R/o Manikpur, P. S. Chalgali, District Balrampur-Ramanujganj Chhattisgarh , Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Chalgali, District Balrampur-Ramanujganj Chhattisgarh , Chhattisgarh

**---- Non-applicant**

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For Applicant – Shri Jitendra Shrivastava, Advocate.

For Non-applicant/State – Shri Vijay Bahadur Singh, Panel Lawyer.

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

**Order on Board**

**06-03-2018**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 27-11-2017 in connection with Crime No.34/2017 registered at P.S. Chalgali, District Balrampur-Ramanujganj, Chhattisgarh for the offence under Section 376(2 - च) of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. A totally false FIR has been lodged by the prosecutrix. According to her, the date of incident is 11-05-2017, whereas, the FIR was lodged on 24-05-2017 after a lapse of 13 days. On the basis of the facts in that FIR, offence under Section 457, 354, 354A, 506-B of the IPC was registered against this applicant and this applicant was granted bail by the concerned Magistrate at the remand stage on 26-05-2017. Subsequently, the prosecutrix in her statement under Section 164 of the Cr.P.C. made improvement stating that she was raped by this applicant on the date of incident. Thereafter, the applicant was arrested and placed in detention. Hence, the case is concocted against this applicant. Therefore, the applicant is

entitled for grant of regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that on the basis of statement under Section 164 of the Cr.P.C. given by the prosecutrix, this applicant is not entitled for grant of bail.

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

5. According to the prosecution case, on 11-05-2017 when the prosecutrix was taking rest in the night, at about 12 p.m. the applicant knocked her door and on the pretext of asking for water he forced his entry into the house of the prosecutrix and thereafter he outraged her modesty and also committed rape with her.

6. Considered on the submissions made and contents of the case diary.

7. On perusal of the case diary, it is apparent that the FIR dated 24-05-2017 is delayed by 13 days and it does not disclose the offence of rape and it was almost after month when the prosecutrix recorded her statement under Section 164 of the Cr.P.C. wherein for the first time it was mentioned that rape was committed with her. Hence, looking to this fact that the offence of rape was not alleged from the very initial stage, I am of this view that the applicant should be released on regular bail during pendency of the trial against him.

8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-

**(Rajendra Chandra Singh Samant)**  
**Judge**