

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 902 of 2018**

- Sushant Nayak S/o Late Madanlal Nayak, Aged About 24 Years, R/o behind Ramlila Ground, Outpost Manikpur, Police Station and District Korba Chhattisgarh, District : Korba, Chhattisgarh

**---- Applicant**

**Versus**

- State of Chhattisgarh Through Station House Officer, Outpost Manikpur Police Station City Kotwali, Korba, District Korba Chhattisgarh, District : Korba, Chhattisgarh

**---- Non-applicant**

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For Applicant – Shri Sunil Sahu and Shri Anil Gulati, Advocates.  
For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

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

**Order on Board**

**10-04-2018**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. His first bail application before this Court was dismissed as withdrawn with liberty to file a fresh application before the concerned trial Court and after the withdrawal of the bail application, the applicant moved an application under Section 439 of the Cr.P.C. before the concerned Court who had dismissed the said bail application. Thereafter, present bail application has been filed. The applicant has been arrested on 20-06-2017 in connection with Crime No.422/2017 registered at P.S. City Kotwali, Korba, District Korba, Chhattisgarh for the offence under Section 376, 384 of the IPC and Section 67 of Information Technology Act (in short 'the I.T. Act').

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The applicant and the prosecutrix had love affair since about two years when the applicant had proposed to marry the prosecutrix. The prosecutrix had been a consenting party in physical relationship between both of them. According to the statement given by the

prosecutrix under Section 161 of the Cr.P.C., she herself has sent her nude photos to the applicant, hence, no case is made out against the applicant under the provisions of Section 67 of the I.T. Act. The reason for lodging the FIR has been disclosed in the deposition of the prosecutrix before the Court, in which, she has made admission in her cross-examination that when her brother called the applicant to give some advice about his relationship with her sister, the applicant and his friends thrashed the brother of the prosecutrix, because of which, she was compelled to lodge the FIR in this case. Hence, it is clearly a concocted case. Therefore, it is prayed that the applicant may be released on bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that statements under Section 161 and under Section 164 are clearly against the applicant and further the prosecutrix has not been declared hostile as she has supported the case of prosecution, hence, no case is made out for grant of bail.

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

5. According to the case against the applicant, the applicant and the prosecutrix were known to each other. The applicant had proposed the prosecutrix to marry which was accepted by the prosecutrix. But, later on, the applicant started to demand for sexual relation with her which was refused, then on one occasion the applicant forcefully raped her. As the prosecutrix liked the applicant, hence she did not make any complaint at that time, but subsequent to that, the applicant obtained some nude photos of the prosecutrix and by using the said photos he started black-mailing her for submitting to physical relation with him on a number of occasions and made physical relation with her, in which the prosecutrix was not a willing party. On some point of time when the prosecutrix started objecting to physical relation with the applicant, the applicant threatened her that he would upload all her photos in the Internet,

thereafter, the prosecutrix informed about the incident to her brother and the brother of the prosecutrix tried to give some advice to the applicant, but, the applicant got him thrashed. Hence, the FIR was lodged.

6. Taking into consideration all the facts and circumstances that are present in this case and this that the stand of the prosecutrix appears to be continuously in support of the prosecution, I am of this opinion that no case is made out for grant of bail.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

Sd/-

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