

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 913 of 2018

Dhiraj Arya, S/o. Late Sevak Ram Ajay, Aged About 24 Years, R/o. Bhatapara Colony Janjgir. Present Address Irrigation Colony, Rampur Quarter Number A-2-19 Out Post Rampur, P.S. and Tahsil Korba District Korba Chhattisgarh.

---- Applicant

Versus

State Of Chattisgarh, Through : Station House Officer, Out Post -Manikpuri, P.S. City Kotwali, Korba, District Korba Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Awadh Tripathi, Advocate
For Respondent	:	Mr. Vinod Tekam, Panel Lawyer
For Objector	:	Mr. Achyut Tiwari, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

28/02/2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 776/2017, registered at Police Station – City Kotwali – Korba, Out Post- Manikpur, District – Korba (C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. Applicant and prosecutrix both had love affair and they had consensual physical relationship. Prosecutrix has lodged false FIR against this applicant, no case is

made out against this applicant on the basis of the material present in the charge-sheet filed against this applicant, applicant is in jail since 08.12.2017, he is government servant employed as clerk in Irrigation Department, Korba and ready to abide by all the conditions imposed for grant of bail. Therefore, it is prayed that the applicant be enlarged on regular bail.

3. Learned State counsel opposes the application and the submission made in this respect.
4. Learned counsel for the Objector submits that the applicant had earlier made indecent approach against the victim in this case, of which she was compelled to lodge a complaint before the police but due to pressure given on her, she had to withdraw her complaint. . Subsequently, clear allegation is made by the complainant that she was forced to sexual intercourse on every occasion, hence, no case is made out for grant of bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. As per the prosecution case, a written complaint was given by the prosecutrix stating that when she was posted in Korba in the Irrigation Office, applicant approached her and proposed for marriage and thereafter by performing a fake marriage in a temple by putting vermilion on her head, he established physical relation with her and committed sexual intercourse on various occasions. Subsequently, the applicant refused to marry with the prosecutrix and because of the defamation she has faced in the society, the FIR was lodged.

7. Considered the submissions made and the contents of the case diary.
Considering the entire material present in the case diary and looking to the length of relationship between the applicant and the prosecutrix and also considering on the statement of the witnesses, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
9. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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 and also with a condition that the applicant shall not influence the witnesses in this case or act in any undue manner so as to affect the proceedings of the trial before the concerned Court.
10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge