

NAFR

HIGHCOURT OF CHHATTISGARH, BILASPUR
M.Cr.C. 1043 of 2018

- Sunil Rajwade S/o Ramprasad Rajwade Aged About 45 Years R/o Sirkotanga, Police Station Manjhapara, Police Station Lakhanpur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Lakhanpur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

For the Applicant : Shri Ajeet Kumar Yadav,
Advocate.

For the Respondent/State : Shri Anant Bajpai, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12.04.2018

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. 164/2017, registered at Police Station – Lakhanpur, District – Surguja, (C.G), for the offences under Sections 376 (d) of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case and he is in jail since 04.10.2017. The prosecutrix in this case is major girl, her age is 27 years and she was consenting party. Apart from that she has given statement under Section 164 of Cr.P.C which discloses that no offence of rape was committed with her, therefore, no case is made out against the present applicant on the basis of statement given by her, hence, it is prayed that the applicant may be released on bail.
3. Learned counsel for the State opposes the bail application and submits that the bail application of the co-accused person has been

rejected by this Court, hence, no case is made out for grant of bail to the present applicant.

4. Heard counsel for both the parties and perused the case diary.
5. According to the prosecution case, on the date of incident, the prosecutrix had been in jungle for collecting dry wood, at that time, the present applicant along-with co-accused person came there and gang raped the prosecutrix. On the basis of statement under Section 161 of Cr. P.C given by the prosecutrix, the case has been registered against this applicant.
6. Although the FIR and the statement given by the prosecutrix under Section 161 of Cr. P.C., in support of gang rape, but the perusal of the certified copy of the statement under Section 164 of Cr. P.C., it appears that the prosecutrix has omitted to state about the offence of gang rape, hence, looking to this development of things in the investigation itself, I am of the view that it is a fit case where the applicant is entitled for grant of bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his 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.

Sd /-
(Rajendra Chandra Singh Samant)
Judge