

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7384 of 2017**

Chandu @ Chandrabhushan Patel S/o Late Arjun Lal Patel, Aged About 28 Years R/o Village Mohondikala, P. S. Sakti, District Janjgir Champa Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through SHO Sakti, District Janjgir Champa Chhattisgarh.

---- Respondent

For the Applicant	:	Shri V.C. Ottalwar and Shri Ishwar Jaiswal, Advocates.
For the Respondent/State	:	Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****17.01.2018**

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.20 of 2017, registered at Police Station – Sakti, District – Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 364, 307 and 376(D) read with Section 34 of the Indian Penal Code and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 30.01.2017 and he has been falsely implicated in this case. The prosecutrix has been examined before the trial Court; she turned hostile and

has not made any allegation against the applicant. 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 mentally retarded person and she made a clear statement before the Judicial Magistrate First Class under Section 164 of the Cr.P.C. that the applicant was one of the accused who had abducted her, raped and attempted to kill her. Hence, the applicant is not entitled for grant of bail.

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

5. On the date of incident, when the prosecutrix was returning home at about 5:30 pm in the evening, the applicant and one another forcefully took the prosecutrix in a field and then raped her. When the prosecutrix started lamenting and shouting, the applicant and one another hit on her head with a stone causing injury to her.

6. Considering the submissions and the contents of the case diary, the certified copy of the statement given by the prosecutrix, which has been placed on record and taking into consideration the development in the trial against the applicant, I am of the considered opinion that the applicant deserves to be released on 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