

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8045 of 2017**

Gautam Kesari S/o Nandu Gupta Aged About 25 Years R/o Village Namna Near Moulvi Bandh Police Station Kotwali Tahsil Ambikapur District Surguja Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station A J A K Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For the Applicant : Shri Shakti Raj Sinha, Advocate.
For the Respondent/State : Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.03.2018**

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.26 of 2017, registered at Police Station – AJAK, Ambikapur, District – Surguja, Chhattisgarh for the offence punishable under Sections 376(2)(n), 313 and 506B of the Indian Penal Code and Section 3(2)(v) 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 16.11.2017 and he has been falsely implicated in this case. The age of the prosecutrix on the date of incident was 21 years and she had been a consenting party throughout. No case is made out against the applicant on

the basis of the material placed before the Court by the prosecution. The applicant is ready to abide by all the conditions imposed on him. Hence, it is prayed that the applicant be enlarged on bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect.

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

5. The prosecutrix is a married woman having a child of three years. According to the allegation in the prosecution case, the applicant forcefully raped the prosecutrix on various occasions, because of which she became pregnant and thereafter, by force he administered some medicine and her pregnancy got aborted. When the prosecutrix asked the applicant to marry her, he refused to marry the prosecutrix saying that the prosecutrix belongs to Scheduled Tribe, hence, he cannot marry her. Hence, this case.

6. Considering the entire material present in the charge-sheet, taking into consideration the nature of the case and the evidence i.e. proposed against the applicant for its trial, I am of the considered view that in this case the applicant deserve to be enlarged on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. 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 trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi