

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1360 of 2018**

Asif Khan, S/o. Haneef Khan, Aged About 32 Years, R/o.- Santoshi Nagar, Behind the Mosque, Police Station -Tikrapara, Raipur District- Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- Police Station- Telibandha, District- Raipur, Chattisgarh.

---- Respondent

For Applicant	: Mr. Yogeshwar Sharma, Advocate
For State/respondent	: Mr. Vijay Bahadur Singh, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**20/04/2018**

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.525/2017, registered at Police Station – Telibandha, District – Raipur (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 the applicant has been falsely implicated in this case. Applicant is in jail since 13.12.2018. Charge-sheet has been filed after completion of investigation. No case is made out against the applicant on the basis of the material present in the charge-sheet. Prosecutrix is a major lady

of age 35 years and she has been a consenting party because of which she accompanied with the applicant at 4.00 AM in the morning to the place allegedly where the offence has been committed. FIR has been lodged deliberately after three days by way of written complaint. Further the medical report also does not disclose any positive report regarding commission of offence. Therefore, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the case of the prosecution, the complainant/prosecutrix has lodged FIR alleging that on the date of incident, the applicant called her on mobile at 4.00 AM in the morning offering to give lift to her scrap shop. Prosecutrix accepted the offer and accompanied with the applicant on his scooter. But instead taking to the scrap shop, the applicant took her to a lonely place and committed the offence of rape with her. Prosecutrix did not speak about the incident to anybody for three days and thereafter informed her husband and thereafter, the FIR has been lodged.
6. Considered on the submissions made and the contents of the case diary and also perused the medical report of the prosecutrix. After due consideration, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram