

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 1255 of 2018**

- Arjun Das Mahant S/o Narrottam Das Mahant, Aged About 28 Years, R/o.- Kumharpara, Near Saraswati School, Sitamani, Korba, District- Korba (C.G.), District : Korba, Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgrh Through- Station Hosue Officer, Police Station A.J.K., Korba (wrongly mentioned as Kotwali in the cause title), District- Korba (C.G.), District : Korba, Chhattisgarh

**---- Non-applicant**

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For Applicant – Shri Awadh Tripathi, Advocate.

For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

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

**Order on Board**

**17-04-2018**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 21-02-2017 in connection with Crime No.85/2017 registered at P.S. - A.J.K., Korba, District- Korba, Chhattisgarh for the offence under Section 376, 450 of the IPC and Section 3(1)(12), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 21-02-2017. Charge sheet has been filed after completion of the investigation and the trial against this applicant is still not completed. The prosecutrix in this case is a married woman and there is no medical report in support of the prosecution. It is further submitted that the FIR of the alleged incident has been lodged only for the reason that husband of the prosecutrix had witnessed this applicant in physical relation with the prosecutrix. Hence, it is prayed that the applicant may be released on bail.
3. Learned counsel for the State/non-applicant opposes the application

and submits that looking to the direct evidence against him, the applicant is not entitled for grant of bail.

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

5. According to the prosecution case, on the date of incident the prosecutrix was sleeping in her house along with her family members and her husband was sleeping on floor, at that time, this applicant forced his entry into her house and started having sexual intercourse with the prosecutrix. The prosecutrix was under this impression that the applicant was her husband, but, soon after she came to know about the difference and then she raised alarm, after which, the applicant was caught on the spot and handed over to police.

6. Perused the diary statement of the witness and looking to the direct evidence that is present against this applicant, it does not appear that there is any scope to assume that it was a case of consent. Hence, under these circumstances, I am not inclined to grant regular bail to the applicant.

7. Consequently, the application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected. Further, the trial Court is directed to expedite the trial and conclude the same as soon as possible.

Sd/-

**(Rajendra Chandra Singh Samant)**  
**Judge**