

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1387 of 2018**

Mukesh Yadav, S/o. Jaiprakash Yadav, Aged About 19 Years, By Caste-
Makhul, R/o. Village- Basantala, P.S.- Narayanpur, Tahsil- Kunkuri, District-
Jashpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- Station House Officer, Police Station-
Narayanpur, District- Jashpur, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Indira Tripathi, Advocate

For State/respondent : Mr. Ashok Swarnakar, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**02/07/2018**

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.17/2017, registered at Police Station – Narayanpur, District – Jashpur (C.G.), for the offence punishable under Section 376, 493 of I.P.C. and Section 4 & 6 of the Protection of Children from Sexual Offences Act and Section 3 (1) (11) of SC/ST Act.
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 25.05.2017. Charge-sheet has been filed after completion of investigation. No case is made out against this applicant. According to the allegation made by the prosecutrix, the physical relation of the applicant with the prosecutrix had taken place between 2014 to 2016 and if it is taken as it is, it is a consensual relation. Secondly. The child was born to the prosecutrix on 02.08.2015 and after waiting for considerable time, the FIR has been lodged on 01.03.2017, which is deliberate and concocted. In fact the applicant is not the father of the child born to the prosecutrix, when the prosecutrix failed to blackmail the applicants, the false FIR has been lodged. Hence, 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. It is submitted that the prosecutrix has made clear statement about the offence of rape committed with her. Hence, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, the applicant committed offence of rape with the prosecutrix in the year 2014 and thereafter putting the prosecutrix under threat and promise to marry her in future, he exploited her sexually on number of occasions. Resultantly, the prosecutrix got pregnant and she gave birth to a girl child on 02.08.2015, when the applicant and his parents refused keep the prosecutrix as wife/daughter-in-law, FIR has been lodged.

6. Considered on the submissions made and the contents of the case diary. According to the contents of the case diary, DNA test has been conducted regarding paternity of the child born. Copy of that report is on record. According to this report, this applicant is not the biological father of the child born to the prosecutrix. Hence, after considering the totality of the case, 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