

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7939 of 2017**

Preetam Singh Gusain S/o Shri Jagmohan Singh Gusain, Aged About 32 Years R/o Baler Para Chowk, Ward No. 4, P. S. Burla Tahsil & District Sambalpur (Odisha)

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station City Kotwali, District Dhamtari, Chhattisgarh

---- Respondent

For the Applicant : Shri Jitendra Nande, Advocate.

For the Respondent/State : Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.01.2018**

The matter is heard on out of turn hearing on the ground that the mother of the applicant has suffered heart attack and she is admitted in the hospital for which the applicant is required to attend her.

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. 493 of 2017, registered at Police Station City Kotwali, Dhamtari, District Dhamtari, Chhattisgarh for the offence punishable under Sections 376(2) (N) and 417 read with Section 506 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 17.11.2017 and he has been falsely implicated in this case. The fact is

that the applicant had visited the prosecutrix in the year 2015 during the negotiations of marriage. As it is alleged that the physical relationship between the applicant and the prosecutrix took place on 27.2.2016 on the promise given by the applicant to marry her whereas the report has been lodged on 15.11.2017 after a long lapse of time. Even if it is assumed that the applicant and the prosecutrix had physical relationship, in that case the relation had been consensual. 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 there is clear statement that the applicant committed forceful sexual act with the prosecutrix. Hence, it is prayed the applicant is not entitled for grant of bail.

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

5. The case against the applicant is that the applicant called the prosecutrix on phone to Raipur where both of them met and then both of them went to Dhamtari, the place of residence of the prosecutrix where the applicant had forceful physical relationship with the prosecutrix and then both of them came to Raipur stayed in a hotel where the applicant forcefully established sexual relationship with the prosecutrix. Subsequently, the marriage could not be performed between the applicant and the prosecutrix and the prosecutrix married to another person. Thereafter, the applicant started to pressurize the prosecutrix to meet him otherwise, he will inform her husband about the incident, hence, the FIR has been lodged.

6. Considering the submissions and the contents of the case-diary, as the case is before the trial Court and the charges have been framed against the applicant and also that keeping the applicant in custody till the conclusion of the trial is not going to serve any purpose, 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 local 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