

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2198 of 2018**

Khemsagar Kond @ Kunu S/o Minketan Aged About 21 Years R/o- Village Achanakpali, Police Station And Tahsil Sarangarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Of Police Station- Saraipali, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anil Gulati, Advocate.
For the Respondent/State : Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.05.2018**

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. 415 of 2017, registered at Police Station Saraipali, District Mahasamund, Chhattisgarh for the offence punishable under Sections 354 and 376 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 27.12.2017 and has been falsely implicated in this case. The FIR that lodged on 26.12.2017 disclosed the offence committed only under Section 354 of the IPC and the offence under Section 376 of the IPC was later added

after recording the statement of the prosecutrix under Section 164 of the Cr.P.C. On 29.12.2017, which clearly shows that the case is concocted. 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 the prosecutrix is aged about just 14 years and after her medico-legal examination on 29.12.2017 the slides prepared by the doctor were sent for FSL examination and the FSL report is positive about the presence of spermatozoa in the secretions found in the private parts of the prosecutrix and also looking to the statement of the prosecutrix, he is not entitled for grant of regular bail.

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

5. According to the prosecution case, on 25.12.2017, this applicant raped the minor prosecutrix, although the FIR was registered only for the offence under Section 354 of the IPC, but on the basis of the statement under Section 164 of the Cr.P.C. and also on the basis of forensic evidence the offence under Section 376 of the IPC has been registered later on.

6. After considering the material present in the case-diary, looking to the age of the prosecutrix with positive evidence of the witnesses as well as the scientific evidence, I am of this view that the applicant is not entitled for grant of regular bail.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi