

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C No. 2539 of 2018

- Ishwar Sahu S/o Shri Chaturram Sahu Aged About 40 Years R/o- Sita Nagar Gogaon, Near Gupta Kirana Shop, Police Station- Gudhiyari, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, Police Station- Gudhiyari, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri D.L. Sahu,
Advocate.

For the Respondent/State : Shri Vijay Bhadur Singh, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17.05.2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant, who has been arrested in connection with Crime No.217/2017, registered at Police Station –Gudhiyari, District – Raipur, (C.G), for the offences under Sections 376 of the Indian Penal Code.
2. The applicant's first bail application has been dismissed as withdrawn by this Court vide order dated 02.01.2018.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. He is in jail since, 27.08.2017. The case is pending before the trial Court and the prosecutrix has been examined, she has made admission in her cross-examination that she did not want to lodge FIR and that time she lodged FIR

due to the pressure of her parents, hence for this reason, the applicant deserves to be released on bail.

4. Learned counsel for the State opposes the bail application and submits that the prosecutrix has given statement in support of the prosecution in her examination-in-chief, hence, no case is made out for grant of bail.
5. Heard counsel for both the parties and perused the case diary.
6. The allegation against the present applicant is this that he has raped the prosecutrix on the date of incident without her consent.
7. Perused the certified copy of the deposition of the prosecutrix she has made statement in favour of the prosecution in her examination-in-chief. The statement of prosecutrix is believable and reliable or not believable shall be decided by the trial Court. The defence as taken by the applicant may be advanced while appreciation of the evidence by the trial Court. This Court while considering on bail cannot usurp the jurisdiction of the trial Court and give any such finding on the credibility of the statement of the prosecutrix, hence, this Court is not inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd /-

(Rajendra Chandra Singh Samant)
Judge