

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8175 of 2017**

Harish Washam S/o Washam Shankar, Aged About 42 Years Residing At Village Nakapara Bhopalpatnam P. S. Bhopalpatnam District Beejapur Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station Tarlaguda, District Beejapur Chhattisgarh.

---- Respondent

For the Applicant : Shri P.K. Tulsyan, Advocate.
For the Respondent/State : Shri Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.03.2018**

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.2 of 2017, registered at Police Station – Tarlaguda, District - Beejapur, Chhattisgarh for the offence punishable under Section 376(2) of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. After completion of investigation, the charge-sheet has been filed. The FIR is delayed by six months and before that a meeting of village elders was held in which the village elders agreed with the submission of the applicant, who

had demanded a DNA test but the prosecutrix and her parents did not agree and lodged a false FIR. The DNA test of the applicant conducted by the police in this case has resulted in negative. Hence, it is prayed that the applicant be enlarged on bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix in this case is deaf-and-dumb and this applicant has taken undue advantage of her physical condition, molested her sexually. Hence, the applicant is not entitled for grant of bail.

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

5. According to the prosecution case about six months prior to lodging of FIR, on 7.6.2017 the applicant had forceful physical relation with the prosecutrix who is disabled being deaf-and-dumb and the prosecutrix became pregnant. On an enquiry, the prosecutrix disclosed that the applicant was the person who has committed forceful sexual intercourse with her. After lodging of FIR, the investigation has been completed and the charge-sheet has been filed.

6. Considering the entire material present in the charge-sheet and after considering the entirety of the material present in the case of the applicant, I am of the considered opinion that the applicant deserves to be released 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 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