

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2930 of 2018**

Dinesh Gupta S/o Chhedulal Gupta Aged About 29 Years R/o Village Nonbirra, Near Bus Stand, Police Station Kartala, District Korba Chhattisgarh, District : Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station AJK, District Korba Chhattisgarh, District : Korba, Chhattisgarh.

---- Respondent

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****30.07.2018**

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. 14 of 2017 (wrongly mentioned as 20 of 2017 in the trial Court order sheet), registered at Police Station AJK, District Korba, Chhattisgarh for the offence punishable under Sections 376, 377, 384 and 506 of the Indian Penal Code, Section 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 66(E) and 67(A) of the Information Technology Act.

2. Learned counsel for the applicant submits that the applicant is in jail since 2.5.2017 and 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. The prosecutrix in this case was aged about 19 years at the time of incident and she had willingly accompanied this applicant and also submitted herself physically with her consent. According to the material present in the case-diary and also according to the statement recorded by the prosecutrix before the trial Court, 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 has not been declared hostile by the prosecution before the trial Court. Hence, he is not entitled for bail.

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

5. According to the prosecution case, on 1.1.2013, the applicant took the prosecutrix to village – Bhasma and while staying in the house of sister of the applicant, he committed the offence of rape with the prosecutrix. This relationship continued on number of occasions up till the FIR was lodged i.e. on 20.5.2017.

6. Considered the material present in the case-diary and also perused the certified copy of the deposition of the prosecutrix. The trial is pending before the concerned Court and so far only two witnesses have been examined out of the 12 witnesses. The trial is getting delayed and this applicant is languishing in jail without any fault on his part. For the present, I am of the view that in this case the applicant deserves 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 applicant shall be released on bail on 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge