

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4630 of 2018**

Joginder Diwakar S/o Shri Bhawan Lal Diwakar Aged About 21 Years R/o Krishna Nagar, Ganesh Chowk, Ward No. 5, Supela, P. S. Supela District Durg Chhattisgarh, District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Dhumka, District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri Ishan Verma, Advocate.
For the Respondent/State : Shri Neeraj Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.07.2018**

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. 111 of 2017, registered at Police Station Dhumka, District Rajnandgaon, Chhattisgarh for the offence punishable under Sections 376, 450 and 342 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 30.08.2017 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 has been examined before the trial Court and she has not supported the case of the prosecution. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsels for the State oppose the bail application and the submissions made in this respect.

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

5. According to the prosecution case, it is alleged that the applicant forced his entry into the house of the minor prosecutrix and then committed the offence of rape. Hence, this case.

6. Considered the material present in the case-diary and also perused the certified copy on the part of the deposition in which she has been partly examined and she has not supported the prosecution case. On the contrary, she made allegation against another person that he committed rape with her. Hence, looking to the change in the circumstances, 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 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

Nimmi