

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6995 of 2017

- Zahar Sai S/o Budhram Sai, Aged About 68 Years Cast - Urawn R/o Village Gharziyabathan, Police Station Pathalgaon, District Jashpur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Pathalgaon, District Jashpur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Sanjay Agrawal, Advocate.
For Respondent	:	Mr. Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

12/01/2018

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.53/2017, registered at Police- Station-Pathalgaon, District- Jashpur(C.G.) for the offence punishable under Sections 363, 376 (i)(n) & 506 of Indian Penal Code & Section 4 of Prevention of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicant is an old man of 68 year and an improbable story has been made against him by the prosecutrix of this case. It is submitted that applicant has not committed of the offence of rape, it is because of some dispute of land, the prosecutrix who is in relation to him, has lodged false FIR against him. It is also submitted that, the age of prosecutrix is more than 18

years and that she has admitted in her statement before the Court that she had physical relationship with some other person and applicant has not committed any offence. He is in jail since 30.3.2017 and he is willing to abide by all the conditions and directions, which may be imposed while granting bail to him. Hence, it is prayed that applicant be enlarged on bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that according to the date of birth as mentioned in Aadhar Card of the prosecutrix, her age on the date of incident was merely 14 years. The offence alleged against the applicant is of grievous in nature, hence, he is not entitled for grant of regular bail.
4. Heard both the parties and perused the case diary.
5. Prosecutrix lodged FIR against the applicant alleging in it that she was aged 14 years on the date of incident and that applicant had on several occasions established physical relationship with her and, thus, has committed rape.
6. Considered the submissions made and the contents of the case diary and also perused the certified copy of the deposition of the prosecutrix, in which, she has turned hostile and not supported the case of prosecution. Taking into consideration the development of the things that have taken place in the trial against the applicant, I am of this view that no purpose would be served if the applicant is kept in detention till the conclusion of trial, hence, it is a fit case for grant of regular bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his

furnishing a personal bond for a 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

Nisha