

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7360 of 2017**

Babla Banjare S/o Durga Prasad Banjare, Aged About 22 Years R/o Village Devgaon, P. S. Masturi, District Bilaspur Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Masturi, District Bilaspur Chhattisgarh.

---- Respondent

For the Applicant : Shri Saurabh Dangi, Advocate.
For the Respondent/State : Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.01.2018**

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.73 of 2017, registered at Police Station – Masturi, District – Bilaspur, Chhattisgarh for the offence punishable under Sections 302, 376 and 201/ 34 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 10.03.2017 and has been falsely implicated in this case. The only evidence of the prosecution against the applicant is one stick which was recovered from the spot. Apart from that, there is no evidence against him. The applicant is a local resident and he is ready to abide by all the conditions imposed on him. Hence, 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 applicant has confessed in his memorandum statement and at his instance, seizure of cloth and stick containing some blood stains were found, which is sufficient to implicate the applicant in this case. Hence, the applicant is not entitled for grant of bail.

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

5. On 7.1.2017, a dead-body of a female was found near Devgaon nala. The deceased was identified as Mamta Chawla. After inquest and postmortem, it was reported that her death was homicidal and she was also subjected to sexual intercourse before her death. The FIR was lodged against unknown persons. Thereafter, the applicant was apprehended after 2 ½ months from the date of incident and his memorandum statement has been recorded, on the basis of which, some articles have been recovered and seized.

6. Considering on the submissions and the contents of the case-diary, the fact that the blood samples of the applicant alongwith the articles connected with the deceased were sent for DNA examination, and the report which has been received is negative and no comparison has been found of the articles connected with the deceased from the blood sample of the applicant, further, the FSL report available in the case-diary also shows negative report about the commission of offence of rape, 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 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