

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7817 of 2017

- Maninath S/o Jagarnath Yadav, Aged About 65 Years R/o Village Ghaton Chauki, Kunni, Police Station Lakhanpur, Surguja Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through In Charge Of Police Station Kedma, District Surguja Chhattisgarh., Chhattisgarh

---- Respondent

For Applicant : Ms. Priyanka Mehta, Advocate.
For Respondent : Mr. Vinod Tekam, Panel Lawyer.

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

14/03/2018

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.52/2017, registered at Police Station– Kedma, District– Surguja(C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Prosecution has come up with a totally improbable story against this applicant. Applicant is aged 70 years and is disabled because of some dispute between applicant and the husband of the prosecutrix, the prosecutrix has lodged false FIR against this applicant. The age of preosecutrix herself is 35 years and the medical report relied upon by the prosecution also does not reflect that any rape was committed with her. No case is made out

against this applicant. Hence, he is entitled for grant of bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that named FIR was lodged by the prosecutrix and according to her statement which has a presumptive value the offence of rape was committed with her by this applicant. Hence, no case is made out for grant of bail.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, on 29.4.2017 when the prosecutrix was alone in her house the applicant by forcing his entry into her house committed forceful rape with her. FIR was lodged on 5.5.2017, after lapse of more than five days, on the basis of which case was registered against this applicant.
6. Considering on the entire material present in the case diary and looking to the evidence that is proposed against this applicant to prove this case against him, for this reason, I am of this view that applicant should be released on regular bail during the pendency of the trial Court against him.
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