

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7924 of 2017

- Omprakash Khairwar S/o Bechu Ram, Aged About 19 Years R/o Village Kapildeopur, Police Station Chalgali, District Balrampur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Chalgali, District Balrampur Chhattisgarh.

---- Respondent

For Applicant : Mr. D.N. Prajapati, Advocate.
For Respondent : Mrs. Smita Ghai, Panel Lawyer.

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

27/02/2018

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.26/2016, registered at Police Station– Chalgali, District– Balrampur(C.G.) for the offence punishable under Sections 376(2) N of Indian Penal Code & Section 3, 4 of Protection of Children from Sexual Offence Act.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicants is in jail since 2.8.2016. The prosecutrix has been examined before the trial Court in which she has been declared hostile by the prosecutrix. Hence, it is prayed that he may be released on regular bail.
3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that the age of prosecutrix on the

date of incident was below 18 years and there is clear allegation against this applicant about committing the offence of rape on the prosecutrix.

4. Heard both the parties and perused the case diary.
5. The allegation is this, that on 13.6.2016 when prosecutrix aged 17 years was returning from labour work then the applicant met her and by force took her to jungle where he committed rape with her. Prosecutrix was found by her mother next day and after informing her parents about the incident, the FIR was lodged.
6. Perused the case diary and considering on the evidence recorded in the investigation and also perused the certified copy of the statement of the prosecutrix before the trial Court, in which, she has turned hostile and she has not supported the case of prosecution. Hence, I am of this opinion that this is a fit case where applicant should be released on 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