

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4 of 2018

- Jaisaheb S/o Late Bharat Saheb, Aged About 37 Years R/o Nearby Nagdev Mandir, Hatkeshwar, Ward Dhamtari, Police Station Dhamtari, Tahsil And District Dhamtari Chhattisgarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Kotwali, Dhamtari, District Dhamtari Chhattisgarh, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Anil Gulati, Advocate.
For Respondent	:	Mrs. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/03/2018

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.421/2017, registered at Police Station– City Kotwali Dhamtari, District Dhamtari (C.G.) for the offence punishable under Sections 376, 354(A), 506 & 385 of the Indian Penal Code.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. According to the statement given by the prosecutrix, she has submitted on several occasions for physical relation with this applicant which itself shows that she was a consenting party. It is further submitted that during investigation, no seizure has been made of any video or MMS from this applicant. 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 apart from the first incident that has taken place of physical relation between applicant and the prosecutrix, rest of the incidents have taken place under the threat given by the applicant to the prosecutrix to defame her by making public the MMS prepared by him of the first incident, hence, no case is made out for grant of bail.
4. Heard both the parties and perused the case diary.
5. According to FIR lodged by the prosecutrix about 1½ year prior to the date of lodging of FIR, she and applicant had physical relation in a restaurant. Subsequent to that applicant stated that he has prepared a video of the first incident of their sexual relation and based on which he sexually exploited the prosecutrix on number of occasions and lastly in Raipur.
6. Considering on the nature of allegation against this applicant in FIR and the statement given by the prosecutrix, even though there is no recovery and seizure of the concerned video or MMS, but the statement of the prosecutrix herself has a presumptive value that she was not a consenting party of sexual intercourse, hence, no case is made out for grant of bail to this applicant on the basis of the material present in the charge-sheet filed against him.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

