

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 130 of 2018**

Suresh Patlay, S/o. Devdas Patlay, Aged About 32 Years, R/o. Village -Binori,
P. S.- Pachpedih, District -Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : P. S. Pachpedih, District- Bilaspur
Chhattisgarh.

---- Respondent

For Applicant	: Mr. Amit Kumar, Advocate
For State/respondent	: Mr. Neeraj Mehta, Panel Lawyer
For Prosecutrix	: Mr. Shashi Kumar Kushwaha, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**13/03/2018**

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.160/2017, registered at Police Station – Panchpedih, District Bilaspur, for the offence punishable under Section 376 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. In-fact, the prosecutrix and the applicant had an affair between them and because some dispute between them, the prosecutrix lodged false FIR against him. Applicant is in jail since 14.10.2017. In between, the development

that has taken place is this that prosecutrix is residing with the family members of this applicant in their house and she is also willing to live with the applicant. The age of the prosecutrix is 30 years and she is capable for giving consent for physical relation, therefore, the counsel prays that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that according to the statement of the prosecutrix, clear case of rape is made out against this applicant, hence, he is not entitled for grant of bail.
4. Counsel for the prosecutrix submits that prosecutrix has no objection, if this applicant is granted bail as presently prosecutrix is living with the family of this applicant and she is also willing to live further with this applicant, when he is released on bail.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the allegation against this applicant on 10.10.2017, the prosecutrix came out of her house to urinate at about 10.00 PM in the night, the applicant caught hold of her and raped her. After informing her parents and others, the prosecutrix lodged the FIR on 13.10.2017. Subsequent to that, applicant was arrested and this case was registered against him.
7. Considered the submissions made and the contents of the case diary. Considering all the material present in the case diary and looking to the statement made by the prosecutrix on affidavit about having no objection, if this applicant is granted bail, this Court is of the opinion

that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that applicant shall be released on bail on their 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge