

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8705 of 2018

- Uttam Janghel S/o Babulal Janghel, agbed about 30 years, R/o Village Darbar Khapri, Police Station & Tehsil Chhuikhadan, District Rajnandgaon (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station Chhuikhadan, District Rajnandgaon (C.G.)

---- Respondent

For Applicant : Shri SS Baghel, Advocate.
For Respondent/State : Smt. M.Asha, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

04/12/2018

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 150/2018, registered at Police Station – Chhuikhadan, District- Rajnandgaon (C.G.) for the offence punishable under Sections 457 & 376 of the IPC and Sections 3 & 4 of the POCSO Act.
2. First bail was dismissed as withdrawn with liberty to file a fresh after examination of the prosecutrix before the Trial Court vide order dated 25.09.2018 passed in M.Cr.C. No. 5364/2018.
3. In this case the age of the prosecutrix on the date of incident is about 17 years 5 months. As per the prosecution story, on 30.06.2018, when prosecutrix after having dinner was sleeping in her room, allegedly the applicant has entered into the room of the prosecutrix and by putting towel in her mouth committed forcefully sexual intercourse with her. Thereafter, report was made by the prosecutrix herself, on the basis of

said report offence has been registered against the present applicant and he has been arrested on 30.06.2018.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. He further submits that prosecutrix is a major lady aged about 18 years and she was a consenting party, therefore, prima facie no offence can be made out against the present applicant, he is in custody since 30.06.2018 and trial will take some time. Therefore, he may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that the applicant is in custody since 30.06.2018 and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release the applicant on bail.
8. Accordingly, the bail application is allowed.
9. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge