

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1965 of 2019**

Muneshwar Ekka S/o Shyamlal Ekka Aged About 19 Years R/o Village Navaparakhurd, Police Station Darima, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station, Jainagar, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Gyan Prakash Shukla, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.04.2019**

Heard.

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.172 of 2018, registered at Police Station – Jainagar, District Surajpur, Chhattisgarh for the offence punishable under Sections 376 and 456 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The applicant has been falsely implicated because there had been a previous

animosity between the families of the applicant and the prosecutrix which has been admitted by the witnesses in the statement before the Court. Therefore, there is evidence to show that the prosecutrix was a consenting party on the ground that no medical evidence was found on her body regarding any struggle or resistance. Hence, for these reasons, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix has made allegation of rape against the applicant in her Court statement and under Section 161 of the Cr.P.C. Hence, the applicant is not entitled for grant of regular bail.

4. Heard counsel for both the parties and perused the case diary.

5. As alleged in this case, the prosecutrix is a minor girl. On the date of incident when she was alone in her house the applicant came there and making a proposition that he wants to marry her and he forcefully raped her. The prosecutrix immediately informed about this incident to her aunt and thereafter, the FIR was lodged.

6. Considered the entire material present in the case-diary and also perused the deposition of the prosecutrix and other witnesses filed alongwith this application. The prosecutrix is not a hostile witness and she has supported the prosecution case. The submission that the applicant has been falsely implicated needs appreciation by the trial Court and this cannot be

done at this stage of considering the submission for grant of bail. Therefore, I do not feel inclined to grant bail to the applicant in this case.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge