

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 10086 of 2018

- Ramesh Bibhar, S/o Nakul Bibhar, Aged About 39 Years, R/o 35/3-G, Risali Sector, Police-Station Newai, Tahsil & District-Durg Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through District Magistrate, District-Durg Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Akath Kumar Yadav, Advocate.
For Respondent	:	Mr. Avinash Kumar Mishra, Panel Lawyer.
For Objector	:	Mrs. Smriti Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/03/2019

1. This is the second bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No.5297 of 2018 vide order dated 17.8.2018 was dismissed as withdrawn with liberty to file application after four months or after examination of prosecutrix whichever is earlier.
2. This 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.117/2018 registered at Police Station–Newai, District–Durg(C.G.) for the offence punishable under Sections 376 & 506 of the Indian Penal Code.
3. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. So far the prosecutrix in this

case has not been examined because the charges have not been framed against the applicant till date. The applicant is in jail since about 9 months. The date of incident according to the FIR is 10.4.2013 whereas the FIR has been lodged on 10.6.2018, after passing more than 5 years. The prosecutrix is aged 29 years and she had always been a consenting party. The wife of this applicant was the twin sister of the prosecutrix with whom he had matrimonial discord. He has filed a civil suit against the parents of the prosecutrix to recover some expenses, because of which as a counter blast the FIR has been lodged, hence, it is prayed that the applicant be granted regular bail.

4. Learned State counsel opposes the application and submissions made in this respect. It is submitted that according to the statement made by the prosecutrix her consent was obtained by putting her under threat that her obscene photographs and videos will be made viral, therefore, it cannot be said that she had a consenting party, hence, he is not entitled for grant of regular bail.
5. Learned counsel for the Objector, who has been appointed through High Court Legal Services Committee has objected the grounds raised in the petition and submits, that the applicant being the husband of her sister had influenced on her which he misused to obtain her consent and thereafter he has also put her under threat of defaming her and has exploited her continuously 5 years, hence, he is not entitled for grant of regular bail.
6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
7. According to the FIR lodged when the prosecutrix had been to sister's place to help her in delivering the child of this applicant and he by use

of this opportunity had exploited her sexually, therefore, on number of occasions this applicant on various pretext forced the prosecutrix to submit to him for sexual exploitation, ultimately FIR has been lodged in this case.

8. After considering the entire material present in the case diary and for the reason that the prosecutrix is 29 years old major woman at present and also after considering on the circumstances after which FIR has been lodged, I am of this view that this is a fit case where the application filed by the applicant is deserves to be allowed.
9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. are allowed. It is directed that applicants shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- each 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