

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7485 of 2020

Khublal Sahu, S/o Loknath @ Lokdhar Sahu, Aged About 25 Years, R/o Rawanguda, Police Station- Arjuni, District- Dhamtari (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police of Police Station- Arjuni, District- Dhamtari (C.G.)

---- Respondent

For Applicant	:	Mr. M.P.S. Bhatia, Advocate on behalf of Mr. Anil Gulati, Advocate.
Respondent/State	:	Mr. B.P. Banjare, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/12/2020

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. 372/2020, registered at Police Station– Arjuni, District– Dhamtari (C.G.) for the offence punishable under Section 376, 506, 509-B of I.P.C. and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 10.09.2020 and has been falsely implicated in this case. The prosecutrix has made false allegation against this applicant that her relation with the applicant started on 05.04.2017,

whereas, FIR has been lodged on 07.09.2020, which is clearly delayed by three years. The applicant has filed copy of photographs along with the application, which show that both had intimate relationship. The other allegation that the applicant has made the photographs of the prosecutrix, viral in social media, is false because, it was she herself, who has posted the photographs in social media, therefore, no case is made out against this applicant. Hence, it is prayed that this applicant may be enlarged on bail.

3. On the other hand, learned State counsel opposes the bail application submitting that the statement of the prosecutrix under Section 164 of the Cr.P.C. mentions that, on the first incident, the applicant, by putting her under threat and then, by use of physical force, exploited her sexually and made photographs and video on his mobile. She has clearly stated that on other occasions also, by putting her under threat that he will make the photographs and video viral in social media, made physical relation with her by forcing her to submit. Therefore, the applicant is not entitled for grant of bail. Hence, the application for grant of bail may be rejected.
4. Learned counsel for the objector supports the submission made by the State counsel and submits that the statement of the prosecutrix reveals that she was never a consenting party and there had been no affair with the applicant. The applicant, is at

present in custody, even then, the prosecutrix is receiving threats and is being influenced by other persons. Copy of photograph, which were made viral in social media, have also been filed for perusal of this Court. Hence, it is prayed that the application for grant of bail may be rejected

5. In reply, it is submitted by learned counsel for the applicant that the prosecutrix has manipulated the dates regarding commission of offence, whereas, the photographs show that there had been friendship between the applicant and the prosecutrix. No case is made out against the applicant, therefore, the applicant is entitled for grant of bail.
6. Heard counsel for both the parties and perused the records.
7. As per case of the prosecution, the prosecutrix has lodged FIR stating that on 05.04.2017, when she was of age below 18 years, the applicant finding her alone in the house, raped her and also prepared video and photographs in his mobile of that act. The applicant then, threatened the prosecutrix to make video viral, in case, she would disclose the incident to anybody. It is stated on subsequent occasions, the applicant used to put the prosecutrix under similar threat for getting her submission for physical relation, which continued for sometimes. The applicant made objectionable photographs viral on social media, because of which, FIR has been lodged.
8. Considered on the submissions and the facts present in this

case. Looking to the statement of the prosecutrix, which is recorded in the investigation, it appears that at present, there is no admission from her side regarding any relationship with the applicant. The reason for delay, appears to have been given in the statement of the prosecutrix. The submission that has been made by the applicant side, are the ground of defence, which are required to be established in the trial. Therefore, I am of this view that it is not a fit case, in which, the applicant should be enlarged on bail.

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

Sd/-
(Rajendra Chandra Singh Samant)
Judge