

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 733 of 2015**

- Balkishan Agrawal S/o Shri Ram Dhyan Agrawal aged about 62 years R/o Dungaji Colony, D.D.Nagar, Police Station D.D. Nagar, District- Raipur, C.G.

----Applicant

Versus

- State of Chhattisgarh through Station House Officer, Police Station Telibandha, District Raipur, C.G.

---- Respondent

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| For applicant | : Mr. Y.C. Sharma, Advocate. |
| For Respondent/State | : Mr. Rajkumar Gupta, Dy. Adv. General |

Hon'ble the Vacation Judge**Order on Board****25/05/2015**

1. Heard on I.A. No. 4 for urgent hearing and I.A. No. 5 for hearing during summer vacation.
2. Both the applications are disposed of.
3. Learned counsel for the applicant prays that the matter be heard finally.
4. With consent of both the parties, heard finally.
5. Learned counsel for the applicant submits that the applicant is co-accused along with three other accused namely Pushpa Diwan, Daneshwar Diwan and Rajnish Agrawal. All the other three co-accused persons preferred bail application before this Court and the same was dismissed by this Court. Crime No. 245/13 under Sections 323, 376, 366-A and 109 of the Indian Penal Code is registered against the applicant. Charge sheet is filed. Presently ST No. 244/13 is pending before the Additional Sessions Judge, FTC, Raipur. Charges are framed against the accused persons. Trial is running but for the last few months as the applicant is ailing and currently taking treatment for blood cancer and bone marrow transplantation and

admitted in Christian Medical College, Vallore, hence the trial is not in progress currently. Previously he was treated at Rajiv Gandhi Memorial Hospital, Delhi. Thereafter he was treated in AIMS and presently he is admitted at CMC, Vallore. He has right to get treatment in a hospital of his choice. If he may be given bail, he will get treatment of his choice and get well soon. The incident is concocted and false. He was falsely implicated. It will take time for disposal of trial therefore he may be given bail.

6. Per contra, learned counsel for the respondent State submits that the allegation surfaced in the charge sheet are very serious. He is not having any valid ground for bail. Government is taking care for his treatment. State incurred about Rs. 14 to 15 lacs in his treatment. He was also taken to Delhi where also cost of the treatment was incurred by the State. The incident is about 13 years old. When the prosecutrix was a minor girl of 14 to 15 years she was exploited sexually and forcibly married to nephew of the applicant to conceal the crime. On **13-5-2013**, prosecutrix lodged FIR. In the year 2014, permanent warrant of arrest was issued against the applicant. If the applicant was permanently residing at Raipur he could very well know about the criminal proceeding against him as there was news in media about the crime. In the year 2015, he was arrested from State of Maharashtra. Before his arrest he was absconding. His entire conduct and evidence collected dis-entitle him to grant him bail, even regular bail. Learned counsel further submits that the trial Court while deciding the petition under Section 439 of Cr.P.C. passed a detailed order. Looking to the facts and circumstances of the case, the petition may be dismissed.
7. Perused the record.
8. Other co-accused were denied bail by this Court. The case of present applicant is in no way lessor than other co-accused, rather it is more serious in comparison to other co-accused. Looking to the facts and circumstances of the case, the evidence collected and as the State has given in writing

along with other papers for treatment that the applicant was being treated in many hospitals, presently he is being treated at CMC, Vallore, I am not inclined to release the applicant on bail. However, the State administration is directed to take care of the applicant and get him treated as per advice of the doctors permissible under the law.

9. Consequently, the petition filed by the applicant under Section 439 of Cr.P.C. is dismissed being devoid of merit.

Sd/
Chandra Bhushan Bajpai
JUDGE