

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.4617 of 2015**

1. Nisar Ahmed aged about 60 years, S/o Mohd.Kalimuddin,

2. Athar Hussain, Aged about 30 years, S/o Late Shri Izhar Hussain,

Both R/o of Near Mazar, Kelabadi, Durg, P.S.-City Kotwali, Durg, 491001,
Revenue, Tah & District Durg (CG)

---Applicant

Versus

State of Chhattisgarh, Through-Officer-in-Charge, Police Station-City Kotwali,
District-Durg (CG)

---Non-applicant

For Applicant	:	Mr. V.G.Tamaskar, Advocate
For Non-applicant	:	Mr. O.P.Sahu, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board**

16/09/2015

1. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.493 of 2015, registered at Police Station-City Kotwali, Durg, District-Durg (CG), for the offence punishable under Section 376 (2) (g)/34 of the IPC.

2. Case of the prosecution, in brief, is that in the month of May, 2015 the present applicants have committed forceful sexual intercourse with the victim and thereby committed the aforesaid offence.

3. Learned counsel for the applicants would submit that the applicants have not committed any offence and they have falsely been implicated in crime in question, which is apparent from the fact that the victim has filed complaint to the Superintendent of Police, Durg on 30.6.2015 that false complaint came to be lodged at the instance of the victim and the victim has also filed W.P. (Cr.) No.146 of 2015 in which on 13.8.2015 this Court has directed for obtaining hand-writing expert

report and for forwarding statement under Section 164 of the CrPC and as such, looking to the relation between victim and applicant No.1, story is false and improbable and it has been falsely registered against the present applicants. He would also submit that the applicants are in jail since 27.6.2015 and charge-sheet is yet to be filed and therefore, they may be released on bail.

4. On the other hand, learned State counsel would oppose the bail application and submit that the victim in her own hand-writing has lodged report in which her statement under Section 161 of the CrPC has also been recorded and she has also been subjected to medical examination and as such, looking to her statement, written complaint and evidence available on record and also looking to seriousness of the case, the appellants are not entitled to be released on bail.

5. Taking into consideration the facts & circumstances of the case, nature & gravity of the offence and the material collected on behalf of the prosecution, I am of the view that present is not a fit case, in which, the applicants should be enlarged on bail.

6. Consequently, bail application filed on behalf of the applicants is rejected.

7. Certified copy as per rule.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-