

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5784 of 2015

1. Anil Kumar Yadav, S/o. Pardeshi Ram Yadav, aged about 50 years, R/o. Near Hanuman Temple, Ruwabandha Basti, Police Station- Bhilai Nagar, District Durg (C.G.)

----Applicant

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station – Bhilai Nagar, District Durg (C.G.)

---- Respondent

For Applicant	: Mr. B.P. Singh, Advocate
For Respondent/State	: Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02/11/2015

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.198/2013, registered at Police Station – Bhilai Nagar, District Durg (C.G.) for the offence punishable under Section 376(1) of Indian Penal Code and Section 5 (1) read with Section 6 of Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 03.04.2013, a report was lodged alleging that the applicant called the prosecutrix on the pretext that she has been called by her brother and thereafter, when they went to nursery, the prosecutrix was subjected to forceful rape. Thereafter, the charge sheet has been filed and the case is pending before the Sessions Court.

3. Learned counsel for the applicant would submit that as per the statement of the prosecutrix in cross-examination at para-24, she has stated that no rape was committed with her and therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. I have gone through the statement of the prosecutrix, wherein in examination in chief, she has affirmed the happening of the offence of rape and examination by the Court, she also affirmed the fact, whereas in the cross-examination, the same is appears to have been negated, therefore, the examination in chief made by the prosecution and by the Court and the cross-examination, can not be appreciated and same can be appreciated after considering other evidence which are available before the Trial Court. Considering the statement of the prosecutrix, it is not proper for this Court to evaluate the statement of the witnesses, therefore, I am not inclined to allow this application in facts of the case.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge