

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5905 of 2015

Ashish Tiwari, S/o. Late Dwarika Prasad Tiwari, Aged About 28 Years,
R/o. Village Sinaudha, P.S. Nevra, Civil & Revenue District Raipur,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through: Station House Officer, P.S. Civil Line,
Civil & Revenue District Raipur, Chhattisgarh

---- Respondent

For Applicant : Mr. A.P.Sharma, Advocate

For Respondent : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/11/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.510/2015 registered at Police Station- Civil Line, Raipur (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that a report was lodged by Smt. Shiv Kumar Vaishnav, mother of the prosecutrix, alleging that the applicant on false promise to marry with her daughter took her at village Saddu where he committed forceful sexual intercourse with her. Therefore, the offence has been registered against the applicant.
3. Learned counsel for the applicant submits that the charge sheet in this case has been filed and the statement under Section 161 do

not say anything about the commission of forceful sexual intercourse. Therefore, the charges under Section 376 cannot be made out against the applicant, hence, he may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and submits that the charge sheet contains the statement of the prosecutrix which was recorded in the Bal Kalyan Samiti wherein the prosecutrix categorically stated that she was subjected to forceful sexual intercourse.
5. I have heard learned counsel for the parties and perused the case diary.
6. Admittedly the prosecutrix is minor and the case diary contains the statement of the prosecutrix wherein she stated that she was subjected to sexual intercourse by the applicant and therefore the veracity of such statement has to be adjudicated before the trial Court not, at this stage. Therefore, considering the statement of the prosecutrix i.e. minor girl, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge