

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.3577 of 2015

Arun Singh Chouhan, S/o Umrao Chouhan, aged about 45 years, R/o Ward No.12, Daganiya Talab Par, Kumhari, P.S. Kumhari, District Durg, Civil and Revenue District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer. P.S. Ganj, District Raipur (C.G.)

---- Non-applicant

For Applicant: Mr. Goutam Khetrapal, Advocate.

For Non-applicant: Mr. Ramakant Mishra, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/08/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.25/2015 {Special ST No.16/2015 pending in the Court of Special Judge (Atrocities), Raipur}, registered at Police Station Ganj, Raipur, Distt. Raipur, for the offence punishable under Sections 376, 506 of the IPC; Section 3 (1) (xii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; Sections 67, 67 (1) and 72 (2) of the Information Technology Act, 2000.
2. Case of the prosecution, in brief, is that the applicant has committed sexual intercourse upon the prosecutrix from November, 2013 to 17-2-2015, the date on which the FIR was lodged against the applicant, and the said sexual intercourse is said to have been committed after having obscene photographs of the prosecutrix and threatening her to kill her if report is

lodged.

3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case. Inordinate delay of 1½ years in lodging the FIR has not been explained by the prosecution and as such, the prosecutrix is major and consenting party. The FIR could be lodged only on 17-2-2015 and the applicant has been arrested on 18-2-2015. Charge-sheet has already been filed and no useful purpose will be served by keeping the applicant in jail. So far as having the obscene photographs is concerned, nothing has been seized along with the charge-sheet and nothing has been filed to demonstrate that any such photograph has been taken by which the prosecutrix was subjected to blackmail by the present applicant. Only in order to falsely implicate the applicant, such an offences have been inserted against the applicant.
4. On the other hand, learned State counsel opposes the application and submits that the prosecutrix is a member of Scheduled Tribe and she has been raped by the applicant since November, 2013 and since the applicant blackmailed her by showing her obscene photographs, she could not lodge FIR right in time and ultimately, the applicant was locked in a hotel at Raipur and report was lodged on 17-2-2015, as such, the applicant is not entitled for bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, material available on record with regard to obscene photographs by the present applicant, role of the present applicant, extent of delay in lodging the FIR particularly the offence is said to have been committed from November, 2013 to 17-2-2015 and the FIR has been lodged on 17-2-2015, the fact that charge-sheet has already been filed and no

custodial interrogation of the applicant is required, I am of the view that it is a fit case to grant regular bail to the applicant. Accordingly, the application is allowed.

7. It is, therefore, directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge