

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Cr. Case No. 3763 OF 2015**

Sharad Gaurha, S/o Bhagwat Prasad Gaurha, aged about 50 years, R/o village Ghutku, P.S. and Post Koni, Civil and Revenue District Bilaspur (C.G.)

---Applicant

Versus

State of Chhattisgarh, through: Police Station Ajak, Bilaspur, District Bilaspur (C.G.)

---Non-applicant

For Applicant	:	Mr. Manoj Paranjpe, Advocate
For Non-applicant	:	Mr. Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****04/08/2015**

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. 1/2015, registered at Police Station Ajak Bilaspur, District Bilaspur, for the offence punishable under Sections 376, 294, 506 of Indian Penal Code and Section 3(1)(xii) and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Case of the prosecution, in brief, is that, present applicant committed sexual intercourse with the prosecutrix on 08/11/2014 and also on 10/11/2014 on the pretext of marriage and threatened her to kill if she lodged the lodged against him.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and has been falsely implicated in offence in question, which is apparent from the fact that First Information Report only made on 08/06/2015 after delay of 7 months. He would further submit that there is no medical evidence and there is variance in the statements of the prosecutrix recorded under Sections 161 and 164 of the Cr.P.C. He would

further submit that no custodial interrogation is required. He would lastly submit that charge sheet has been filed and applicant is in jail since 09/06/2015 therefore, he may be released on bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that prosecutrix is member of Scheduled Caste and she was subjected to sexual intercourse on the pretext of marriage.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; role of the present applicant in offence in question, extent of delay in lodging FIR; pretrial detention of the applicant and charge sheet has been filed, this Court is of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

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

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE