

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.4381 of 2015**

Daya Shankar Kherwar S/o Bhajawan Kherwar, aged about-28 years, Resident of Village-Chera, P.S.-Trikunda, District – Balrampur – Ramanujganj (CG)

---Applicant

Versus

State of Chhattisgarh Through – Police Station Trikunda, District Balrampur-Ramanujganj (CG)

---Non-applicant

For Applicant	:	Mr. A.K.Yadav, Advocate
For Non-applicant	:	Mr. Neeraj Pradhan, Panel Lawyer

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

31/08/2015

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.29/2015, registered at Police Station-Trikunda, District Balrampur-Ramanujganj (C.G.), for the offence punishable under Sections 376, 506 and 354 of the IPC.

2. Case of the prosecution, in brief, is that the present applicant has allegedly outraged the modesty of the prosecutrix and thereafter committed sexual intercourse with her on 7.4.2015 and thereby committed the aforesaid offence.

3. Learned counsel for the applicant would submit that the applicant has not committed any offence and he has falsely been implicated in crime in question. He would further submit that there is delay of 28 days in lodging the F.I.R. as the incident took place on 7.4.2015 and F.I.R. was made on 5.5.2015. He would also submit that the prosecutrix was major and consenting party, as such, the applicant is in jail since 28.5.2015 and there is no medical evidence,

therefore, he may be released on regular bail.

4. On the other hand, learned counsel for the State would oppose the bail application.

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; extent of delay in lodging the F.I.R., role of the present applicant, evidence available on record and the fact that the applicant is in jail since 28.5.2015, this Court is of the opinion that present is a 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

B/-