

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6417 of 2015

Daneshwar Sonwani, S/o. Arun Kumar Sonwani, Aged About 18 Years,
R/o. Village Dundera, P.S. Arjunda, Tah. Gunderdehi, Distt. Balod,
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. Arjunda, Distt.
Balod, Chhattisgarh

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate

For Respondent : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

30/11/2015

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.167/2015 registered at Police Station- Arjunda, District Balod (C.G.) for the offence punishable under Section 376, 450 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 01.09.2015, a complaint was lodged that the applicant entered into the house of the complainant and thereafter committed sexual intercourse with the prosecutrix who was deaf and dumb and mentally retarded.
3. Learned counsel for the applicant submits that the document placed by the prosecution do not support the case of the prosecution as the statement of the prosecutrix could not be recorded being deaf and dumb and it is further stated that the expert could not record the statement of the mother, therefore, no case of rape is made out.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. The eye-witness to the incident is the brother of the prosecutrix who has seen the incident and reported the fact. Considering the fact that the prosecutrix is deaf and dumb and mentally retarded and the eye-witness is present, 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