

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.5355 of 2015

Shambhu Gond, S/o Basman Gond, aged about 24 years, R/o Panchsheel Nagar, Near Chhattisgarh Club, Post Office Raipur, Police Station Civil Line, Raipur, District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through the Station House Officer, Police Station Civil Line, Raipur, District Raipur (C.G.)

---- Non-applicant

For Applicant:	Mr. Shivendu Pandya, Advocate.
For Non-applicant:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/10/2015

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.412/2015, registered at Police Station Civil Lines, Raipur, Distt. Raipur, for the offence punishable under Sections 377 & 511 of the IPC.
2. Case of the prosecution, in brief, is that on 7-7-2015, the applicant has committed carnal intercourse against the order of nature with the complainant's brother and thereby committed the offence.
3. Learned counsel for the applicant submits that in the FIR, there is no allegation of attempt to commit carnal intercourse whereas, the prosecution has improved its case while recording statement under Section 161 of the CrPC and even otherwise, offence under Section 377 of the IPC with the aid of Section 511 of the IPC has been registered against the applicant and is pending and in which the applicant is in jail since 7-7-2015. Charge-sheet

has been filed.

4. On the other hand, learned State counsel opposes the application and submits that the complainant's brother with whom the applicant is alleged to have committed the alleged offense, is mentally retarded and as such, the applicant is not entitled to be released on 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, role of the present applicant, allegation against the applicant, pretrial detention of the applicant and the fact that charge-sheet has already been filed, 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