

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.5601 of 2015**

Dharamkant Kashyap, S/o.-Pushkar Kashyap, Aged about-25 years, By Caste-Kurmi, R/o.-Podi, Police Station-Pali, Civil & Revenue District-Korba (CG)

---Applicant

Versus

The State of Chhattisgarh Through: Police Station – Pali, District – Korba (CG)

---Non-applicant

For Applicant	:	Mr. D.K.Gwalre, Advocate
For Non-applicant	:	Mr. O.P.Sahu, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

14/10/2015

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.76/2015, registered at Police Station-Pali, District-Korba (CG), for the offence punishable under Sections 376 & 201 of the IPC and Section 67(A) of the Information Technology Act.
2. Case of the prosecution, in brief, is that the applicant is alleged to have committed forcible sexual intercourse with the prosecutrix on the pretext of marriage from August, 2013 to April, 2015 and also made her obscene photographs and F.I.R. came to be lodged on 17.5.2015.
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 the prosecutrix is major and consenting party and there is no explanation of delay of two years in lodging the F.I.R. There is no medical evidence to connect the applicant in crime in question. Obscene photograph is said to have been circulated in the mobile of Shriram,

brother of the prosecutrix, who is not charge-sheeted as list witness and as such, the applicant is in jail since 21.9.2015, charge-sheet has already been filed and no custodial interrogation from the accused is required and therefore, he may be enlarged on 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; role of the present applicant; extent of delay in lodging the F.I.R.; 164 statement of the prosecutrix; medical evidence brought on record; the fact that charge-sheet has already been filed and no further interrogation is required, 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 his furnishing a personal bond in the sum of ₹ 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/-