

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2897 of 2016

Ashish @ Ashu Tiwari, S/o. Arvind Tiwari, Aged About 28 Years, R/o. Behind Hitech Bus Stand, Police Station- Sirgitti, District- Bilaspur Chhattisgarh, Permanent Address - Railway Colony, Dhanpuri, Police Station - Amlai, District - Shahdol (M.P.)

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station - Civil Line (wrongly mentioned as Patharia), Bilaspur, District – Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Vijay Kumar Sahu, Advocate

For Respondent : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/06/2016

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.118/2016 registered at Police Station- Civil Line, Bilaspur, District Bilaspur (C.G.) for the offence punishable under Section 363, 365, 366-A, 370-A, 376 of Indian Penal Code, Section 5, 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v), 3(1)(xi) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that the prosecutrix who is a minor girl was allured by one other co-accused while she was staying in the Hostel. Thereafter, initially one Ghanshyam had sexually exploited her and subsequently the prosecutrix was threatened by the said accused and thereafter other co-accused also joined the stream of the crime and committed forceful sexual intercourse. The present applicant is one of the accused who

committed sexual intercourse against the will of the prosecutrix and the prosecutrix was extended threat.

3. Learned counsel for the applicant would submit that exorbitant delay has been caused in lodging the FIR and the statement of the prosecutrix itself would go to show that she was a consenting party to the incident, therefore, taking into the huge and enormous delay, the applicant may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of the prosecutrix under Section 161 & 164 of Cr.P.C. and the statement of other witness wherein it is stated that the prosecutrix was subjected to sexual intercourse and she was extended threat that if she refuses, the photograph of such obscene act would be made public. Taking into the statement of the prosecutrix under Section 161 & 164 of Cr.P.C., it is not a case where the accused should be released on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge