

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3215 of 2016

1. Radheshyam, S/o. Dayalu Singh Chouhan, aged about 63 years, R/o. Village- Pounsari, Police Chowki Chandanu, P.S. - Nandghat, District – Bemetara (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer, Police Chowki – Chandanu, P.S. - Nandghat, District – Bemetara (Chhattisgarh)

---- Respondent

For Applicant	: Mr. P.P. Sahu, Advocate
For Respondent/State	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

29/06/2016

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.104/2016, registered at Police Station – Police Chowki Chandanu, P.S. Nandghat, District – Bemetara (C.G.) for the offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 24.03.2016 at about 7.00 PM, the prosecutrix after answering the call of nature while was coming back at that time, the applicant caught hold of her and took her near *Kothar* and thereby committed sexual intercourse against her will.

3. Learned counsel for the applicant submits that the prosecutrix was a consenting party and the way it happened, was seen by the daughter of Khorbaharin, therefore, the false report was made and no offence is made out against the applicant. It is further submitted that charge-sheet in this case has been filed and the applicant is in jail since 26.03.2016, therefore, the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the case diary and the statement of the prosecutrix recorded under Section 161 and 164 of Cr.P.C.. Considering the way the offence has been committed and further considering the fact that charge-sheet in this case has been filed and the applicant is in jail since 26.03.2016, 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 Rs.25,000/- with one surety each 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/-
(Goutam Bhaduri)
Judge