

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M. CR. C No. 216 of 2016

Kamlesh Rathi, S/o. Late Babulal Rathi, aged about 26 years, R/o. Maheshwari Para, Sukma, Civil, District S.B. Dantewada, Revenue District Sukma, District Sukma (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Sukma District Sukma (C.G.)

---- Respondent

For Applicants	:-	Ms. Fouzia Mirza, Advocate
For Respondent/ State	:-	Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/01/2016

1. This is the second bail application under Section 439 Cr.P.C for grant of bail to the applicant who has been arrested on 01.12.2015 in connection with Crime No. 119/2015 registered at Police Station Sukma, District Sukma (C.G.) for the offence punishable under Sections 294,323,506 B, 354 of Indian Penal Code and Section 8 of Protection of Children from Sexual Offence Act, 2012.
2. The first bail application of the applicant was dismissed as withdrawn with liberty to move again after filing of the charge sheet on 21.12.2015 in M.Cr.C. No. 7157 of 2015.
3. Case of the prosecution, in brief, is that, on 09.09.2015 while the victim went to market with her friend Mamta, at that time the applicant came there and caught hold the hands of the prosecutrix and dragged her in the market by holding her hairs and tried to

outrage the modesty of the victim. Thereby, the offence is committed.

4. Counsel for the applicant submits that the applicant has been falsely implicated in this case. She further submits that the alleged incident happened on 09.09.2015 and the FIR was made on 29.10.2015. She further submits that the way of offence has been committed it cannot be stated that there was intention to commit any sexual overact and thereby offence under sections 354 and Protection of Children from Sexual Offence Act, 2012 cannot be attracted. She further submits that the applicant is in jail since 01.12.2015 and the charge-sheet has been filed in this case, therefore, the applicant may be enlarged on bail.
5. Learned State counsel opposes the prayer for grant of bail.
6. Having regard to the fact and the nature of offence and the degree of allegations levelled against this applicant and the fact the charge sheet in this case has been filed and the applicant is in jail since 01.12.2015, this Court is inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge