

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1855 of 2016

- Ashish Tiwari S/o Late Dwarika Prasad Tiwari Aged About 28 Years R/o Village Sinaudha, P.S. Nevra, Civil & Revenue District Raipur Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh through the Station House Officer, P.S. Civil Line, Civil & Revenue District Raipur Chhattisgarh

---- **Respondent**

For the applicant	:	Mr. A. P. Sharma, Advocate
For the Respondent	:	Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

29.03.2016

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 510 of 2015 registered at P.S. Civil Lines, Raipur (C.G) for the offence punishable under Section 363, 366, 376 of IPC & Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012. The first bail application was dismissed on 04.11.2015.
2. The prosecution case, in brief, is that a report was lodged by one Shiv Kumari Vaishnav, mother of prosecutrix alleging that on false promise to marry with her daughter the applicant took away the prosecutrix to village Saddu where he committed forcible sexual intercourse with her.
3. Learned counsel for the applicant submits that the prosecutrix and her mother Shiv Kumari Vaishnav have been examined as P.W.1 & P.W.2 and they have not supported the case of prosecution. He placed the statements of prosecutrix

and her mother with the bail application as Annexure A-3 .
He further submits that the applicant is in jail since 29.08.2015, therefore, he may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail application. However, he do not dispute the fact that the prosecutrix and her mother have not supported the case of prosecution.
5. Perused the statements of prosecutrix and her mother which are annexed to the bail application.
6. Taking into consideration the totality of the circumstances and the fact that the prosecutrix and her mother have been examined and they have not supported the version of prosecution and further looking to the detention period of the applicant as he is stated to be in jail since 29.08.2015, this Court is inclined to release him on bail. Accordingly, this application is allowed.
7. Accordingly, this application is allowed and the applicant is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He is also directed to appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-

GOUTAM BHADURI
JUDGE