

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.1750 of 2016**

Jitendra Sahu S/o Shri Ramgual Sahu, aged about 22 years, by caste Teli, R/o Village: Baskot Nayapara, Out Post : Baskot, Police Station Vishrampuri, District Kondagaon (CG)

---Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station : Vishrampuri, District : Kondagaon (CG)

---Non-applicant

For Applicant	:	Mr. Govind Ram Miri, Advocate
For Non-applicant	:	Mr. S. Awasthy, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

30/03/2016

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.35/2015, registered at Police Station-Vishrampuri, District-Kondagaon (CG), for the offence punishable under Section 376(2) g) of the IPC & 376D of the IPC and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Case of the prosecution, in brief, is that on 14.5.2015 the applicant and one co-accused gang-raped the mentally retarded prosecutrix aged about 22 years and thereby committed the offence.

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 improbable

story has been framed by the prosecution, there is no sexual assault made by the applicant, there is no internal or external injury on the body of the prosecutrix and there is no medical evidence. Total false case has been registered the present applicant, in which he is in jail sine more than one year, therefore, he may be released on regular bail.

4. On the other hand, learned State counsel would oppose the bail application and submit that there are three eye-witnesses in the present case namely Vinay Kumar Kashyap, Jitendra and Umesh, who have seen the applicant committing sexual intercourse with the prosecutrix. He would further submit that the prosecutrix was found naked and cloths were given to her by Ratanlal.

5. I have heard learned counsel for the parties and perused the case diary.

6. Taking into consideration the nature & gravity of the offence, facts & circumstances of the case, the manner in which the mentally retarded prosecutrix is said to have been gang-raped by the applicant and one co-accused and evidence available in the case diary, I do not find any ground for grant of regular bail to the applicant. Consequently, bail application filed on behalf of the applicant is rejected.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-