

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2115 of 2016

1. Prakash Mahto @ Gorkha, S/o. Koushal Kishore Mahto, aged about 18 years, R/o. Shantinagar, P.S. - Vishrampur, District – Surajpur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer - Police Station, Gandhinagarh, District – Surguja (C.G.)

---- Respondent

For Applicants	: Ms. Hamida Siddiqui, Advocate
For Respondent/State	: Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/07/2016

1. This is the second 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.151/2015, registered at Police Station – Gandhinagar, District – Surguja (C.G.) for the offence punishable under Section 377 of Indian Penal Code and Section 3 & 4 of Protection of Children from Sexual Offences. The earlier bail application was dismissed as withdrawn vide order dated 04.12.2015 in M.Cr.C.No.6551/2015 with liberty to revive the same after examination of the victim and eye witness.
2. Case of the prosecution, in brief, is that on 03.07.2015 at 9.30 PM, the applicant has committed unnatural sexual intercourse with the victim/boy. Thereby the offence has been committed.

3. Learned counsel for the applicant submits that before the Court below only one eye-witness was examined, who was enlisted and the name of other eye-witness do not find place in list of the witnesses as such the witnesses deemed to be given up, therefore, under the facts of the case, since the victim/boy has not supported the case of the prosecution, the applicant may be enlarged bail.
4. On the other hand, learned counsel for the State opposes the bail application and would submit that in the trial program, the name of the other eye-witnesses is also enlisted.
5. I have heard learned counsel appearing for the parties.
6. Considering the fact that still the eye-witness is enlisted and state counsel submits the witness is to be examined according to the list, considering the earlier order the case for maturity of hearing of the bail petition as per order dated 04.12.2015 has not yet arose as similar position exists as it was on the date of rejection of earlier bail application on 04.12.2015. Therefore, I am not inclined to entertain the bail application at this stage.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge