

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3299 of 2016

- Nandau @ Munna Yadav S/o Ghamira Yadav Aged About 42 Years R/o Village Gorakhpur, P.S. Gourela, Tahsil Pendraroad, District Bilaspur Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh through Station House Officer, Police Station Gourela, District Bilaspur Chhattisgarh **Respondent**

For the applicant	:	Mr. Ashok Soni, Advocate
For the Respondent	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

05.07.2016

1. This is first 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. 119 of 2016 registered at P.S. Gourela, Distt. Bilaspur (C.G) for the offence punishable under Sections 376 & 456 of IPC and Sections 3(1)(xii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. As per the prosecution case, on 05.04.2016 at about 1.00 a.m., in the night the applicant entered into bed room of prosecutrix while her husband was not there and thereafter committed forcible sexual intercourse.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case and the prosecutrix is aged about 45 years therefore it can be said that it is a case of consent. He further submits there were other inmates in the house and the applicant entered into the room and went inside the mosquito of the prosecutrix and

thereafter looking to the way the offence narrated, it would appear that the prosecutrix is a consenting party, therefore, the applicant may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail.
5. Perused the statements of prosecutrix recorded u/s 161 & 164 which show that there were other inmates in the house and the applicant entered into her bed room and thereafter committed forcibly sexual intercourse.
6. Considering the facts and circumstances of the case and the statements of the prosecutrix u/s 161 & 164 Cr.P.C., and further looking to the age of prosecutrix, without any observation on merits of the case, I am inclined to release the applicant on bail.
7. Accordingly, the bail 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 shall also appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE