

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3825 of 2016

Prafulla Sharma, S/o. Chhediram Sharma, Aged About 28 Years, R/o. Near Rao Cottage, Kasaridih, Durg, Police Station Durg, District Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Durg, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. C.R. Sahu, Advocate

For Respondent : Mr. O.P. Sahu, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20.07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.534/2014 registered at Police Station- Durg, District Durg (C.G.) for the offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution, in brief, is that a report was made by the prosecutrix that the applicant has taken her photograph, who was known to her and thereafter the applicant has committed forceful sexual intercourse and has taken out the video and subsequently when the applicant has threatened to make the video viral in the net, the report was made.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated and the prosecutrix in this case has been examined and she has not supported the case of the prosecution, therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of the prosecutrix. The lengthy cross examination and the examination in chief has been made wherein at times the incident has been admitted, at places the consent has been stated, therefore, it would be appropriate to leave this matter to be decided by the trial Court which can evaluate the evidence after all the evidence before it are place. Taking into few lines from the examination in chief and cross examination, this bail Court cannot substitute itself to give a positive finding in the trial. In view of this, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge