

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4065 of 2016

Krishna Mandavi, S/o. Tiral Mandavi, aged about 42 years, Caste-Gond,
R/o. Village Murdongri, Tahsil & District North Bastar – Kanker (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station-
Kanker, District – North Bastar Kanker, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sandeep Yadav, Advocate

For Respondent : Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.07.2016

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.120/2016, registered at Police Station- Kanker, District – North Bastar – Kanker (C.G.) for the offence punishable under Section 376 of Indian Penal Code and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 26.01.2016 while the prosecutrix who is a minor girl was in her house, at that time applicant came to the house and committed sexual intercourse. Thereby, the offence is committed.
3. Learned counsel for the applicant submits that the alleged offence though stated to be of 26.01.2016 but the report was made on 21.04.2016 and delay has not been explained. It is further submitted that charge-sheet has been filed, medical report do not show that rape has been committed, FSL report also do not support

contention of rape. It is further submitted that penetration in this case has not been proved as the medical report do not support the same, which shows that hymen is intact as against this, the statement of the girl would show that full penetration is caused, therefore, the applicant has been falsely implicated in this case. It is further submitted that charge-sheet in this case has been filed and the applicant is in jail since 21.04.2016, therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties.
6. Perused the statement of the girl and the medical report. In the statement, the girl has stated that penetration has been caused, however, the extent of penetration has not been supported by the medical evidence. Considering such facts, without any further observation on merits, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge