

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 809 of 2016

- Laxmi Chand Chandrakar S/o Late Shri Jagannath Prasad
Chandrakar Aged About 65 Years R/o Besides Mahila Nagrik Bank,
Ward No. 10, Station Road, Mahasamund, Tahsil & District
Mahasamund, Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh Through Officer In Charge, Police Station City
Kotwali, Mahasamund, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Rahul Tamaskar, Advocate
For the Respondent	:	Mr. Vivek Singhal, Panel lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24.08.2016

1. This is first bail application filed under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail to the applicant in connection with Crime No. 307 of 2016 registered at P.S. City Kotwali, Mahasamund (C.G) for the offence punishable under Sections 376, 377, 506 IPC & Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. As per the prosecution case, a report was made by the prosecutrix that the applicant used to perform witchcraft and on that count, the prosecutrix was threatened and she was subjected to unnatural sex also. When the prosecutrix reported the matter to her husband, it was ignored. Subsequently it is stated that the applicant extended threat of witchcraft to destroy the family members of prosecutrix. Therefore, she kept quiet and the report was made with delay.
3. Learned counsel for the applicant would submit that in fact

the wife of applicant has entered into an agreement of sale in the year 2009 and since the sale was not materialized, the pressure was extended on the applicant, consequently a false report has been made and it is further submitted that though the incident was of the year 2010 but no report was made for a long time which would go to show that the applicant has been falsely implicated in this case.

4. Per contra, learned State Counsel opposes the bail.
5. Perused the statements of prosecutrix u/ss 161 & 164 Cr.P.C. On perusal of such statements, it appears that sufficient reasons have been explained for the delay caused as she was continued under the threat of witchcraft. It is also stated that the family members of the applicant exerted pressure on the prosecutrix and got the affidavit executed by force, therefore, considering her statement and the delay which has been explained, it is not a case where the benefit of section 438 Cr.P.C., can be extended to the applicant.
6. Accordingly, the bail application is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**