

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7019 of 2016

- Akesh Kumar S/o Netra Kumar Aged About 40 Years R/o Village Bundeli, Police Station Tendukona, Tahsil & District Mahasamund, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Tendukona, District Mahasamund, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Kamlesh Kumar Pandey and Ms.
Pritha Ghoshal, Advocates

For Respondent/State : Mr. U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10-11-2016

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 on 31-8-2016 in connection with Crime No. 93 of 2016, registered at Police Station Tendukona, District Mahasamund (CG) for the offence punishable under Section 376(d)/34 of the IPC.
2. Case of the prosecution, in brief, is that On 17-8-2016 the prosecutrix went to Police Station to lodge a report against her husband due to some family dispute. After seeing the report Police told her that the report lodged by her is not cognizable and subsequently advised her to register the case under Section 155 of Cr.P.C., to take stern action against him. Thereafter, she was made to wait in the Police Station. Subsequently, Police Officer came there and present applicant also joined and the prosecutrix was

subjected to rape and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in this case and the present applicant was not there at the time of incident and false allegations have been attributed to the applicant. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 31-8-2016 and no further investigation is required, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and other documents.
6. Perused the statement of the victim girl and also the statement of Gopal Sonwani, Police Constable wherein positive allegations have been attributed to the present applicant and the presence of the applicant is also not disputed.
7. Taking into consideration the facts and circumstances of the case, nature and gravity of the offence and the manner in which the aforesaid offence was committed and further considering the statements of victim girl and Gopal Sonwani, Police Constable, I am not inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju

