

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7096 of 2016

- Nikunj S/o Niranjan, Aged About 22 Years R/o Village Silsila, Police Station Lundra, District Surguja, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through S.H.O. Lundra, District Surguja, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Sunil Tripathi, Advocate

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

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17-11-2016

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 3-9-2016 in connection with Crime No. 92 of 2016, registered at Police Station Lundra, District Surguja (CG) for the offence punishable under Sections 376 and 506 of the IPC.
2. As per prosecution case, on 30-8-2016 a report was made by the the prosecutrix that on 29-8-2016 while she was cutting grass in her *badi*, at that time the applicant came there and forcibly committed sexual intercourse with her and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the prosecutrix is a married lady and she was a consenting party which would be evident from the statement of the husband of the victim and the alleged time of incident was 5.00 pm which is incompletely improbable. He would further submit that the charge-sheet has

been filed in this case, he is in jail since 3-9-2016 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 and have also perused the case diary and the documents.
6. Perused the statement of the prosecutrix and also the statement of the husband of the victim.
7. Taking into consideration the facts and circumstances of the case and further considering the statements of the prosecutrix and the statement of husband of the victim, without further observation on the merit of the case, I am inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju