

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 544 of 2017

- Umendi Ram Alendra S/o Benuram, Aged About 34 Years R/o Riwagahan, Police Station- Devri, Tahsil- Doundilohara, District- Balod Chhattisgarh.

---- **Petitioner**

Versus

- State of Chhattisgarh Through- Station House Officer, Police Station- Devri, District- Balod Chhattisgarh.

---- **Respondent**

For Applicant : Mr. B.P. Singh, Advocate

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06-02-2017

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 6-12-2016 in connection with Crime No. 149 of 2016, registered at Police Station Devri, District Balod (CG) for the offence punishable under Sections 354 and 454 of the IPC.
2. Case of the prosecution, in brief, is that on 5-12-2016 a report was made by the prosecutrix, who is deaf and dumb that while she was alone in her house, at that time the applicant entered into her house and caught hold of her hands, she was made lay on the ground and thereafter he opened her garments and also tried to commit rape on her and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in the case due to

previous enmity and false allegations have been attributed against the present applicant. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 6-12-2016 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 others.
6. Perused the statements of the prosecutrix recorded under Sections 161 and 164 of the Cr.P.C. which would show that she appears to be deaf and dumb and direct allegations have been attributed to the present applicant.
7. Taking into consideration the facts and circumstances of the case and further considering the statements and physical incapability of the prosecutrix, I am of the considered opinion that *prima facie* that it is not a fit case where the applicant can be enlarged 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