

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1110 of 2017

- Devesh Patel S/o Sukhram Patel Aged About 20 Years R/o Village-Dhaba, Police Station, Bori District- Durg, Civil And Revenue District Durg Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through: Station House Officer Police Station Bori, District- Durg, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Avinash Chand Sahu, Advocate
For Respondent/State	:	Shri Aditya Sharma, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

01/03/2017

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.84/2015 registered at Police Station Bori, District Durg for the offence punishable under Section 376(2)(a), 450 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicant entered the house of the prosecutrix and committed rape on her.

4. Learned counsel for the applicant submits that allegation against the applicant having been committed rape on the prosecutrix is false and the allegations are exaggerated. He submits that the prosecutrix has now been examined in the trial Court, wherein on a very specific question put to her by the trial Court, she has denied that any rape was committed on her and also stated that nothing wrong was done by the applicant. He lastly submits that the

applicant is in jail since 09-10-2015 and the trial is not likely to be concluded early, the applicant may be granted bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that the prosecutrix in her examination in chief has stated regarding commission of offence of rape, however, the prosecutrix has stated that it was not done with her, pursuant to the question put to her, and therefore, it is essentially a matter of appreciation of evidence. It is lastly submitted that as the application is alleged to have committed heinous offence and that number of prosecution witnesses are yet to be examined before the Court below, the applicant is not entitled to bail.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicant that the prosecutrix has now been examined before the trial Court and considering further submission of learned counsel for the applicant that in response to question put to the prosecutrix by the trial Court, she has stated that the applicant has not done anything wrong with her and also that the applicant is in jail since 09-10-2015 and the applicant is not in a position to tamper the prosecution witnesses or likely to abscond, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. He shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(Manindra Mohan Shrivastava)

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