

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1312 of 2017

- Shyamu Diwan S/o Ram Singh Diwan, Aged About 19 Years R/o Village Chingarmal, Police Station Piperchhedi, District Gariyaband Chhattisgarh

---- **Petitioner**

Versus

- State of Chhattisgarh Through Police Station Piperchhedi District Gariyaband Chhattisgarh

---- **Respondent**

For Applicant : Mr. Mohammad Afroz Athar, Advocate

For Respondent/State : Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-03-2017

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 4-12-2015 in connection with Crime No. 27 of 2015, registered at Police Station Piperchhedi, District Gariyaband (CG) for the offence punishable under Section 376(D) of the IPC.
2. As per prosecution case, a report was made by the prosecutrix that on 1-12-2015 while she was alone in her house, at that time the applicant along with other co-accused forcefully entered in to her house and committed rape on her and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that all the prosecution witnesses have been examined and the case is fixed for defence evidence and the case of the prosecution is not supported by the prosecution witnesses. He would further submit

that charge-sheet has been filed in this case, the applicant is in jail since 4-12-2015 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 documents.
6. Perused the statements of all the prosecution witnesses.
7. Considering all the statements of the prosecution witnesses, this court is of the opinion that it is futile to go into the merits of the case for consideration of bail by evaluating the statements of prosecution witnesses as it would amount to usurping the power of trial Court. In view of this I am not inclined to allow this bail application
8. Accordingly, it is rejected.

Sd/-
(Goutam Bhaduri)
Judge

Raju