

HIGH COURT OF CHHATTISGARH, BILASPUR

M. Cr. C. No. 1833 OF 2017

Bhupendra Lodhi S/o Kapil Lodhi aged about 20 years, R/o Village Mohtara outpost Khadsara, Police Station, Tahsil and District Bemetara (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Station House Officer, Police Station Bemetara, District Bemetara (C.G.)

---- Non-applicant

For Applicant : Mr. H.B. Agrawal, Sr. Advocate with
Ms. Prabha Sharma, Advocate.

For Non-applicant : Mr. Avinash Singh, PL

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/06/2017

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 in connection with Crime No.128/2016 registered at Police Station- Bemetara, District Bemetara (C.G.), for the offence punishable under Sections 376(d) of Indian Penal Code and Section 3(2)(5) & 3(1)(12) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
2. As per the prosecution case, on 6.3.2016, at village Mohtara, when the victim, who is deaf and dumb had gone to answer the call of nature, at that time, applicant alongwith other co-accused caught hold the victim and committed forcible sexual intercourse with her. The incident was seen by the mother of the victim, who was gone there after hearing the cries of her daughter at that time, other co-accused had committed rape with her.

3. Learned counsel for the applicant would submit that the victim was not examined as she was deaf. He would further submit that the mother of the victim namely Jamuna Bai Dhruv was examined but she was not stated about the presence of presence applicant and the applicant has not been named in the FIR. He would further submit that the entire allegation attributed against the other co-accused. He would lastly submit that the applicant has not committed any offence and has been falsely implicated in the case and he is in custody since 7.3.2016, therefore, the applicant may be released on regular bail.
4. The learned counsel for the State would oppose the prayer for grant of bail to the applicant and submit that *Panchnama* was prepared as to identify the accused wherein the victim had disclosed the name of the present applicant, which was also present at the time of commission of offence, therefore, the applicant may not be released on regular bail.
5. Perused the case diary and considered the facts and circumstances of the case; further considering the statement of one Bhagwan Patel as also the *Panchmana* statement wherein it has stated that the present applicant and co-accused have committed rape with the victim, I am not inclined to release the present applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Certified copy as per Rules.

Sd/-

(Goutam Bhaduri)
Vacation Judge