

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1823 of 2017

Bhaiyalal, S/o. Jagnarayan Harijan, aged about 32 years, Caste- Harijan, R/o. Village- Chapda, Police Station and Tahsil – Odgi, District – Surajpur (C.G.)

----Applicant

Versus

The State Of Chhattisgarh, Through - Police Station- Odgi, District- Surajpur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. A.K. Prasad, Advocate
For Respondent/State	: Mr. Ashish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20/03/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.29/2016, registered at Police Station – Odgi, District – Surajpur (C.G.) for the offence punishable under Section 341, 506, 323, 376 (2) (G) of Indian Penal Code and Section 4 and 6 of the Protection of Children from Sexual Offence Act, 2012. The first bail application was dismissed vide order dated 22.08.2016 on merits.
2. Case of the prosecution, in brief, is that on 08.04.2016, Bhaiyalal, Pawan along with other co-accused persons while the prosecutrix was coming back stopped her in the way and took her to the school and gang rape was committed. Thereafter one of the co-accused Nageshwar called Manikchand Kurre, who assaulted the prosecutrix and thereafter left her at certain place. Subsequently, the report was made on 10.04.2016. Thereby the offence has been committed.

3. Learned counsel for the applicant would submit that prosecutrix has been examined and categorically she has not stated anything against the applicant, which would be evident from the cross-examination, therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the statement of the prosecutrix. At this stage it would not be proper for this Court to evaluate the statement of the prosecutrix and it is for the trial Court to examine the same with the other evidences available on record. Deciding the case on the basis of evaluating the cross-examination here in bail will amount to usurp the power of trial Court. Taking into such fact, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge