

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1621 of 2017

- Premshankar Dewangan S/o Ganesh Dewangan, Aged About 32 Years R/o Indira Para, Police Station Bhilai 3, Tahsil Patan, District Durg, Chhattisgarh. --- **Applicant**

Versus

- State of Chhattisgarh Through Police Station Bhilai 3, District Durg, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Arun Kochar, Advocate
For the Respondent	:	Mr. Neeraj Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.03.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 322 of 2016 registered at Police Station Old Bhilai-3 (Purani Bhilai), Distt. Durg (C.G) for the offence punishable under Sections 450, 376, 506 & 323 of IPC.
2. As per the prosecution case, the First Information Report was lodged by Poornima Dewangan who is sister of prosecutrix that on 28.06.2016 when she came back from school , at that time, her sister (the victim) who was mentally retarded was at home and she saw the door closed and after opening the door the present applicant was running away and her sister was lying on the bed with no clothes having bleeding as she was subjected to forcible sexual intercourse by the present applicant. Thereafter the present applicant was arrested.
3. Learned counsel for the applicant would submit that this is

fourth bail application, the first bail application was dismissed for want of prosecution on 17.11.2016; the second one was also dismissed on the same footing on 04.01.2017 and the 3rd one was dismissed as withdrawn on 7.2.2017 with liberty to file afresh after examination of the prosecutrix. It is submitted that the sister of the victim Poornima Dewangan, mother Pushpa Dewangan and father Vishwanath Dewangan have been examined and they have not supported the case of prosecution and even the identity of the applicant has been denied, therefore, the applicant has been falsely implicated and he may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail.
5. Perused the statements of Poornima Dewangan, sister of the victim wherein the identity of the applicant has been completely denied. The statement of the victim could not be recorded as she is stated to be mentally retarded. Considering the same without any further observation on merits of the case, I am inclined to allow this bail application.
6. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

C.c. as per rules.

**Sd/-
GOUTAM BHADURI
JUDGE**