

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4477 of 2017

- Raju @ Vijay Patel S/o Late Vasudev Patel, Aged About 50 Years R/o Basdei, Out Post Basdei, Police Station Surajpur, District Surajpur, Chhattisgarh. **--- Applicant**

Versus

- State of Chhattisgarh Through Station House Officer, Scheduled Caste & Secheduled Tribe Welfare Police Station Surajpur, District Surajpur, Chhattisgarh. **--- Respondent**

For the applicant	:	Mr. Surfaraj Khan, Advocate
For the State	:	Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

14.07.2017

1. This is second 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. 543/2016 registered at P.S. Surajpur, Distt. Surajpur (C.G) for the offence punishable under Sections 363, 376 & 323 of IPC and section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. The first bail application was dismissed on 13.02.2017 on merits.
3. As per the prosecution case, a report was made by the prosecutrix on 14.12.2016 alleging that on 12.12.2016 the prosecutrix with her husband came to Bilaspur and when her husband was in drunken condition, the prosecutrix was subjected to forceful rape by the applicant, thereby the offence has been committed.
4. Learned counsel for the applicant would submit that the prosecutrix has been examined and after going through the

statement it would show that she was a consenting party and no resistance was made by the prosecutrix, therefore, the applicant may be enlarged on bail.

5. On the other hand, learned State Counsel opposes the prayer.
6. Perused the statement of prosecutrix. As appears, the entire evidence has to be evaluated by the trial Court after all the evidence is adduced on record. At this stage, any observation made by this court not only amounts to usurping the power of the trial Court but also effects the merits of the case. Therefore, I am not inclined to allow this bail application. Accordingly, it is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**