

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7362 of 2017

Prateek Bharati S/o D.R. Bharati, Aged About 31 Years R/o
Kashyap Colony, Karbala, Police Station City Kotwali, Bilaspur,
District Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Tarbahar, District Bilaspur Chhattisgarh.

---- Respondent

For applicant - Smt. Indira Tripathi, Advocate.
For Respondent/State –Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

15/12/2017

1. This is second bail application under section 439 of Cr.P.C. The earlier bail application was dismissed on 11/10/2017 vide M.Cr.C. No.5655 of 2017.
2. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No.41/2017 registered in Police Station Tarbahar, District Bilaspur (C.G.) for offence punishable under sections 370, 376 (d), 34, 109 of IPC & Section 4 & 6 of Protection of Children from Sexual Offences Act.
3. As per the prosecution case, on 17/01/2016 victim when alighted at Bilaspur Station, thereafter one person came and asked for ticket and given his identity that he is police looking for her. Thereafter she was taken to the bus stand and was made to have her meal. Thereafter she was taken to the hotel and two other ladies joined there. Thereafter two persons also joined there who committed rape with her.
4. Learned counsel for the applicant submits that victim has not identified the applicant and no case is made out against him. She further

submits that statement of PW-7 mother would show that she has deposed that victim used to tell lie and victim was already exposed before identification, therefore identification cannot be relied upon and the applicant may be released on bail.

5. Learned State counsel opposes the prayer for grant of bail.

6. Perusal of the rejection order dated 11/10/2017 wherein this court observed that despite the fact that examination of the victim PW-6, Tehsildar is still to be examined. In the statement of Tehsildar PW-11 would show at para 2 of his deposition he has categorically supported identification which is marked as Ex.P-12. Considering the same, this court while hearing bail would not go into for evaluating statement of the witnesses as that of trial as it would amount to usurping power of the trial court and may affect the trial. Taking into such fact, this court is not inclined to release the applicant on bail.

7. Accordingly, the second bail application is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE