

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5655 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	:	Shri Achyut Tiwari, Advocate
For Respondent-State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/10/2017**

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 on 17-02-2017 in connection with Crime No. 41 of 2017 registered at Police Station Tarbahar, District Bilaspur (CG) for the offence punishable under Sections 370, 376 (d), 34, 109 of the I.P.C. and Sections 4 & 6 of the Protection of the Children from Sexual Offences Act.
2. As per the prosecution case, on 17.01.2016 the victim alighted at Bilaspur station, thereafter, a person came and asked for ticket and stated that the police is looking for her. Thereafter, she was taken to bus-stand and someone was called and she taken her meal. Thereafter, they went to a hotel. Subsequently, in hotel two other ladies came and she was taken to a house wherein two persons committed rape with the victim. Thereafter, the

victim could escape and when she wanted to go back Tata, Jamshedpur, she met another boy who had taken her towards forest and while he was trying to commit sexual intercourse, the police came there, the boy fled away from thereafter the report was lodged.

3. Learned counsel for the applicant would submit that the victim has been examined before the Court and she has not identified the present applicant, therefore, no offence has been committed, therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes prayer for grant of bail.
5. It appears that the victim is a minor. The identification was carried out and the Tehsildar who carried out the identification is still to be examined and in pretrial identification, the applicant was identified. Considering the same and the age of the victim at this stage, it would not be proper for this Court to give a finding as it would amount to usurping the power of trial Court. Accordingly, the bail application is dismissed.

Sd/-

Goutam Bhaduri

Judge

Ashu