

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1408 of 2020

Anil Dhiwar S/o Nohar Dhiwar Aged About 23 Years R/o Village
Chandkhuri Basti , Mandir Hasaud, Police Station Mandir Hasaud,
Tahsil Arang, District Raipur Chhattisgarh.
--- **Petitioner**

Versus

State of Chhattisgarh through Police Station Mandir Hasaud, District
Raipur Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. P.K. Patel, Advocate.
For the Respondent	:	Mr. Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.05.2020

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. 415/2019 registered at Police Station Mandir Hasaud, Distt. Raipur (C.G) for the offences punishable under Sections 376(E), 376(L) & 450 of IPC.
2. As per the prosecution case, on 08.09.2019 a report was lodged by the Sub-inspector that a statement of the prosecutrix who is deaf and dumb was recorded by the expert of deaf and dumb on the basis of gestures made by the prosecutrix wherein it is stated that on 06.09.2019 and 07.09.2019 in absence of her husband, the applicant entered into the house and committed sexual intercourse.
3. Learned counsel for the applicant submits that this is a case of consent as the prosecutrix is a married lady and she herself did not report the matter and the conduct would show that she is a consenting party. He further submits that the applicant is in jail since 09.09.2019 and the charge sheet has been filed, therefore, the

applicant may be enlarged on bail.

4. Learned State Counsel opposes the bail application and submits that the prosecutrix is deaf and dumb and she is married lady and appears to be major and the time of incident was at 2 p.m. noon. Considering the facts situation of the case particularly the time of incident and the prosecutrix is major and the incident occurred on different dates, without any observation on merit, I am inclined to allow this bail application.
5. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his 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**

Rao