

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 446 of 2021**

- Lekhram Yadav, S/o Bishat Yadav, Aged About 23 Years, R/o Near Gram Panchayat Urkura, Police Station Khamtarai, District Raipur Chhattisgarh

---- Applicant (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, District Raipur Chhattisgarh

---- Respondent

For Applicant	: Shri Aditya Khare, Advocate
For Respondent/State	: Shri Sameer Sharma, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

11.06.2021

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.569 of 2020 registered at Police Station Khamtarai, District- Raipur CG for the offences punishable under Sections 376, and 376(2)(I) of the IPC.
2. Case of the prosecution in brief is that on 19.11.2020, FIR was lodged by mother of prosecutrix mentioning that on the basis of discussion between residents of that area, she learnt that applicant has committed intercourse with her daughter in a temple, which has been captured in CC TV camera, fitted in the temple. One Deepak Nirmalkar while checking the CCTV camera recording, revealed that the present applicant committed intercourse with the prosecutrix, who is aged about 32 years, dumb, deaf and mentally retarded woman. On the basis of complaint given by mother of prosecutrix, aforementioned crime was registered against the present applicant.
3. Shri Aditya Khare, learned counsel for the applicant submits that complaint has been lodged only when the act and incident was seen by

Deepak Nirmalkar while checking the CCTV recording and intimating to other persons. Prosecutrix is a major woman, aged about 32 years and consenting party. Hence, no offence is made out against the present applicant. He is in jail since 19.11.2020 and charge-sheet has also been filed after completing the investigation, hence, applicant may be enlarged on bail.

4. Shri Sameer Sharma, learned Dy Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that though prosecutrix is an adult, but, she is dumb, deaf and mentally retarded woman, with whom applicant has committed intercourse. The criminal act was recorded in the CCTV, and said recording has also been seized by the Police. He also submits that one Anil Kumar, who is teacher of dumb and deaf school, and other witnesses have also stated that the prosecutrix is dumb, deaf and mentally retarded. Hence, applicant is not entitled for grant of bail under Section 439 of the CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration the nature of allegations levelled against the applicant, status of prosecutrix to be dumb, deaf and mentally retarded, as stated by the witnesses in their statement recorded under Section 161 CrPC, I am not inclined to enlarge the applicant on bail. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
JUDGE