

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2683 of 2021

- Saiyyad Shoaib Ali S/o Shri Sayyad Sadiq Ali Aged About 25 Years R/o Nehru Nagar Colony, Jalgrah Marg, Police Station Kotwali, District Raipur Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through P.S. Kotwali, Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Madhunisha Singh, Advocate
For State	:	Mr. GaganTiwari, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

08.04.2021

1. Heard
2. This is the second bail application filed by the applicant under Section 439 of the Code of Criminal Procedure for grant of bail as he was arrested on 22.07.2020 in connection with Crime No. 198/2020, registered in Police Station Kotwali Distt. Raipur (C.G.) for offence punishable under Sections 376(2)(n), 384, 506, 120B, 509B/34 of IPC & Section 65 of the Information Technology Act.
3. As per the prosecution case, the allegation is that the applicant has taken obscene photographs of the prosecutrix and demanded money and thereafter committed forceful sexual intercourse against her will. Subsequently, he made the photographs viral in the common electronic platform.
4. Learned counsel for the applicant submits that the first bail application was dismissed as withdrawn with a liberty to revive the bail application after the examination of the prosecutrix and the prosecutrix has been examined. She further submits that Para 22 of the statement would show that she was a consenting party as she was a married lady of aged about 35 years, therefore the applicant may be enlarged on bail.

5. Perused the statement of the prosecutrix PW-2. The cross-examination of the witness to be appreciated along with the other evidence who are examined during the course of trial. In examination in chief the prosecutrix has made a positive statement. Considering the same, this Court will not act as a trial Court while hearing the bail. The trial Court would be in proper position to appreciate the evidence of the statement of the prosecutrix when entire other evidence is placed before it. Taking into this fact, I am not inclined to grant bail to the applicant. Accordingly, the bail application filed under Section 439 of Cr.P.C. stands rejected.

6. Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE

Vishakha