

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1060 of 2015

Shivshankar @ Birbal Yadav, son of late Gomti Yadav, aged about 31 years, resident of Gaibuda, Police Chowki, Pandarapath, Police Station Bagicha, District Jashpur (CG). --- **Applicant**

Versus

State of Chhattisgarh through Station House Officer, P.S. Bagicha, District Jashpur (C.G) --- **Respondent**

For the applicant : Mr Sushil Dubey, Advocate

For the Respondent : Mr. Vivek Singha, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.11.2015

1. Apprehending arrest in connection with Crime No. 156 of 2015 registered at Police Station Bagicha, district Jashpur (C.G) for the offences punishable under Sections 366(a), 342, 376 of IPC read with Section 3 & 4 of Protection of Children from Sexual Offences 2012, the applicant has filed this application under Section 438 Cr.P.C., for grant of anticipatory bail.
2. As per the prosecution case, on 01.08.2015 at about 9.00 p.m., in the night the prosecutrix aged about 15 years was going to her uncle's house. At that time, the applicant came there by motorcycle and offered lift and took her to his room and subsequently on the pretext of marriage committed sexual intercourse and on the next day, left her in the house of her sister. On a report being made to the police, the investigation is going on.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case as the dispute exists between the father of prosecutrix and brother of applicant and according to the statement made u/s 164 Cr.P.C., she has stated that no rape has been

committed. He prays that applicant may be enlarged on anticipatory bail.

4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. I have gone through the statement of the prosecutrix u/s 161 Cr.P.C., where the commission of rape is stated and the medical report also supports the commission of rape.
6. Considering the statement of prosecutrix and the evidence available in the case diary, I am not inclined to allow this bail application. as perusal of case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required.
7. Accordingly, the anticipatory bail application is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**