

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6524 of 2015

Harishanker Pahadi Korwa, S/o. Atwa Ram, Aged About 30 Years, Caste Korwa, R/o. Village Gaibuda, P.S. Bagicha, Distt. Jashpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. Bagicha, Distt. Jashpur, Chhattisgarh

---- Respondent

For Applicant : Mr. Sushil Dubey, Advocate

For Respondent : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01/12/2015

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 in connection with Crime No.151/2015 registered at Police Station- Bagicha, District Jashpur (C.G.) for the offence punishable under Section 450, 376, 323 of Indian Penal Code.
2. As per the prosecution case, in brief, on 23.07.2015 the applicant entered into the house of the prosecutrix and thereafter dragged her mouth and committed forceful sexual intercourse and therefore the report was made.
3. Learned counsel for the applicant submits that the prosecutrix is major and the way the incident happened it was the case of consent, as the applicant entered into the house and when he was in compromising position with the prosecutrix, the husband of the prosecutrix came which resulted into assault to each other, which would lead to show that the prosecutrix was a consenting party.

He further submits that the applicant is in jail since 26.07.2015, therefore, he may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Having regard to the fact that the incident is said to have been occurred at about 5 pm and the applicant was assaulted by the husband of the prosecutrix and thereafter the matter was reported; further taking into the facts and circumstances of the case and the manner in which the offence is alleged to have been committed, without any observation on merit, for the purpose of bail, I am inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge