

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.3616 of 2015

Rajkumar @ Raja, S/o Dhanauram Verma, aged about 23 years, R/o Village Karahi, Police Station Pipariya, District Kabirdham, Civil & Revenue District Kabirdham.

---- Applicant

Versus

State of Chhattisgarh, through the Station House In-charge, Police Station Khamariya, District Bemetara (CG)

---- Non-applicant

For Applicant:	Mr. Sandeep Shrivastava, Advocate.
For Non-applicant:	Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/09/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.197/2014 (ST No.33/2015 pending in the Court of Additional Sessions Judge, Bemetara), registered at Police Station Khamariya, Distt. Bemetara, for the offence punishable under Sections 363A, 366, 376, 506 read with Section 34 of the IPC, 4, 5, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.
2. This is the second bail application filed on behalf of the applicant for grant of regular bail. First bail application was dismissed as withdrawn with liberty to file the same after material prosecution witnesses are examined, vide order dated 23-3-2015 passed by this Court in M.Cr.C.No.1039/2015. Material prosecution witnesses including father of the prosecutrix and the prosecutrix have been examined.
3. Case of the prosecution, in brief, is that on 27-12-2014 co-accused Rakesh

@ Tinku Chandrakar with the help of the present applicant, is alleged to have committed rape with the prosecutrix and thereby committed the offence.

4. Learned counsel for the applicant submits that there is no allegation of rape against the present applicant and main allegation is against Rakesh @ Tinku Chandrakar who is alleged to have committed rape with the prosecutrix on 27-12-2014. He further submits that the prosecutrix had earlier made a statement that the applicant had caught hold of her and sexual intercourse was committed by co-accused Rakesh @ Tinku Chandrakar, now in her statement before the Court, she has refuted that earlier statement also and as such, there is no evidence against the applicant. The applicant is in jail since 27-1-2015 and no useful purpose will be served by keeping him in jail.
5. On the other hand, learned State counsel would oppose the bail application.
6. I have heard learned counsel appearing for the parties and perused the case diary.
7. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, pre-trial detention of the applicant, that there is no allegation of rape against the applicant and the applicant is in custody from 27-1-2015, I am of the view that it is a fit case to enlarge the applicant on regular bail. Accordingly, the application is allowed.
8. It is, therefore, directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge