

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1036 of 2016

Puni Lal, S/o Devnarayan, aged about 25 years, Caste Satnami, R/o Village Tuman, Police Station Urga, Tahsil Kartala, District Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate, Korba, District Korba (C.G.)

---- Non-applicant

For Applicant:	Dr. N.K. Shukla, Senior Advocate with Mr. Sushil Dubey, Advocate.
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For Non-applicant:	Mr. D.R. Minj, Deputy Govt. Advocate.
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Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

21/04/2016

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.242/2015, registered at Police Station Urga, Distt. Korba, for the offence punishable under Section 376(2)(g) of the IPC.
2. Case of the prosecution, in brief, is that the applicant committed gang rape with the prosecutrix on 29-8-2015 at 6 p.m. and thereby committed the offence.
3. Learned Senior Counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case. Brothers of the prosecutrix namely Dauram Baghel and Makhanlal Baghel have committed sexual intercourse with the sister of the applicant on 9-3-2014, FIR has been lodged against them and they are facing criminal trial for the offence punishable under Section

376 read with Section 34 of the IPC. Therefore, in order to take revenge, this false report has been lodged against the present applicant by the prosecutrix/sister of Dauram Baghel and Makhanlal Baghel on 30-8-2015 with a delay of 24 hours for the aforesaid offence which is not supported by medical evidence. General and omnibus statement has been made by the prosecutrix. It is improbable that two real brothers will commit rape with a prosecutrix at one time. There is no medical evidence on record to support the case of the prosecution and there is also no supporting evidence against the applicant. The applicant has been falsely implicated in the case of gang rape in which he is in jail since 25-1-2016 and charge-sheet has not yet been filed.

4. On the other hand, learned State counsel opposes the application and submits that broken bangles have been recovered from the place of incident which supports the case of the prosecution that the applicant has committed gang rape upon the prosecutrix.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration, nature and gravity of offence, facts and circumstances of case, the manner in which the applicant is said to have gang-raped the prosecutrix, recovery of broken bangles from place of occurrence and other material available on record, I do not consider it a fit case for grant of bail to the applicant. The application is accordingly, rejected.

Sd/-
(Sanjay K. Agrawal)
Judge