HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2029 of 2016

Mohamed Rahim Raja @ Kahim Khan S/o. Mohamed Salim Raja, Aged about 34 years, R/o. Santoshi Nagar, Chourasiya Colony, Police Station Tikrapara, Raipur District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Ganj Raipur, District Raipur (C.G.)

---- Respondent

For Applicant :- Shri C.R. Sahu, Advocate
For Respondent/State :- Shri Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20.06.2016

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. 130/2015 registered at Police Station- Ganj, Raipur District Raipur (C.G.) for the offence punishable under Sections 363,376(झ), 376 (घ), 372, 342, 370(क), 506 and read with section 34 of Indian Penal Code.

2. Case of the prosecution, in brief, is that a missing report was lodged by the father of the victim on 26.07.2015. The girl was recovered on 01.08.2015 from Railway Station, Raipur. During the course of interrogation, it was revealed that she was in her aunts house on 26.06.2015, while she was returning to her home at about 10.00PM two accused persons namely Ashish and Gulshan took her in their motorcycle and she was first kept in a hotel, there they have committed sexual intercourse with the prosecutrix. On the next day, she was taken to the house of Shaina Begum, wherein the applicant and the other accused persons have kept the

prosecutrix in their captivity and committed sexual intercourse with her.

3. Counsel for the applicant submits that the prosecutrix has been examined but the identity of the applicant has not been established by the prosecutrix and no allegation of rape has been attributed to the present applicant and the allegation of rape has been attributed to the other co-accused persons, therefore, the applicant may be enlarged on bail.

4. Counsel for the State opposes the prayer for grant of bail.

5. Perused the case diary and the statement of the prosecutrix which is placed on record. At para 16 it is stated that when prosecutrix went from Sarangarh at that time Shaina Begum and her husband and Bengali named boy they made to sit her in the car and in para 18 it is stated that Mukeh is known as Bengali. Considering the fact and circumstances of the case and the fact that the identity of the applicant was made in the deposition of the mother of the prosecutrix and the other witness, however, this fact is to be appreciated that the applicant was the husband of Shaina Begum by trail Court as the entire evidence to be appreciated during the course of trial, therefore, I am not inclined to release the applicant on bail.

6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Goutam Bhaduri)
Judge

Santosh