

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2849 of 2016

Krishna Kumar Rathore, S/o. Mahadev @ Priyashwar Rathore, Aged About 26 Years, Caste- Rathore, R/o. Sigansara Para, Baikunthpur, P.S. & Tehsil Sakti, District Janjgir Champa, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Sakti, District Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant : Mr. V.K.Pandey, Advocate

For Respondent : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14/06/2016

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.83/2015 registered at Police Station- Sakti, District Janjgir-Champa (C.G.) for the offence punishable under Section 376 & 506 of IPC.
2. Case of the prosecution, in brief, is that the applicant was in love relation with the prosecutrix and on the pretext of marriage the applicant committed sexual intercourse with the prosecutrix and she became pregnant.
3. Learned counsel for the applicant would submit that the prosecutrix was a major lady and she on her own consent was in relation with the applicant which would not amount to any rape and they were in love relation for last 4-5 years prior to the date of the report. Therefore, the applicant cannot be held liable for commission of any crime and, as such, he may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement of the prosecutrix. One of the statement recorded under Section 164 of Cr.P.C. purports that initially after the FIR was made, the prosecutrix was threatened to take back her report by the police. Subsequently, it was followed by the brother-in-law of the applicant Sanjay Rathod and stated that who offered her money and thereafter followed by one Rafique Pathan who is stated to be a Reporter. Considering the fact that the prosecutrix was extended threat to take back the report, the release of the applicant would defeat the principles of very purpose of bail as primary evidence exists on record that extend of threat was there to take back the report. Therefore, under the facts and circumstances of the case, it is not a case where the accused should be released on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge