

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.CR.C. No. 3716 of 2016**

1. Sumer Sai @ Somra Nageshiya, S/o. Dipan Nageshiya, aged about 20 years, R/o. Jaljali, P.S. Samripat, District – Balrampur – Ramanujganj (C.G.)

----Applicant

**Versus**

1. State of Chhattisgarh, Through : Police Station – Samripat, District – Balrampur-Ramanujganj (C.G.)

---- Respondent

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For Applicant : Mr. A.K. Yadav, Advocate

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**15/07/2016**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.5/2015, registered at Police Station – Samripat, District – Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 323, 376 of Indian Penal Code.
2. Case of the prosecution, in brief, is that a report was made by the prosecutrix on 28.01.2015 alleging that the applicant in order to perform marriage with prosecutrix developed sexual relation for last 2-3 years and when she became pregnant, the applicant refused to marry her and when she wanted to go in marriage and went out and was in company of one Naresh at that time, the applicant came and assaulted her. Thereby the offence has been committed.

3. Learned counsel for the applicant submits that the prosecutrix is married lady and she was earlier married at Jharkhand and came back and thereafter living along with her mother and father and are in relation with the applicant. It is further submitted that the prosecutrix is major lady, therefore, no offence can be attributed of forceful rape. It is further submitted that the applicant is in jail since 29.01.2015 and charge sheet in this case has been filed, therefore, counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel for the parties.
6. Perused the statement of the prosecutrix, which shows that she was married lady living along with her mother and father and she had relation with the applicant. Taking into such fact without any observation on merits, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall 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 trial Court, for his appearance as and when directed.
9. Certified copy as per rules.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge