

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3832 of 2016

- Rajendra Gawalani S/o Shri Karamchand Gawalani Aged About 42 Years R/o Santkanwar Ram Ward Bhatapara, Tehsil Bhatapara, Civil & Rev. Distt. Baloda Bazar- Bhatapara Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Simga, District Baloda Bazar - Bhatapara, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Sunil Otwani, Advocate
For the Respondent	:	Mr. Lav Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

20.07.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.136/2016 registered at P.S. Simga, Distt. Baloda Bazar-Bhatapara (C.G) for the offence punishable under Sections 376 IPC and Section 67 of the IT Act.
2. As per the prosecution case, from 14.01.2014 onwards the applicant on the pretext of marriage committed forcible sexual intercourse with the prosecutrix. It is alleged that in January 2014, the prosecutrix who was a widow met the applicant and the applicant stated that he is not happy with his wife and want to get separated from her. Consequently, he took the prosecutrix to a temple and filled her forehead with vermilion (Sindhur) and thereafter committed sexual intercourse and assured that whenever he gets separation

from his wife, he will marry the prosecutrix and when he did not perform marriage, ultimately a report was made.

3. Learned counsel for the applicant would submit that the prosecutrix is a widow aged about 40 years and she was a consenting party and knowing fully well she has developed the relations, therefore, the same cannot be stated to be an offence of rape.
4. Per contra, learned State Counsel opposes the bail.
5. Perused the case diary and the documents. Also perused the statements of the prosecutrix recorded u/ss 161 & 164 Cr.P.C. It appears from her statements that she was a widow and she stated that the applicant would take divorce from his wife and on that basis the relation was developed.
6. Taking into such statements of the prosecutrix recorded u/s 161 & 164 Cr.P.C., without making any further observation on the merits of the case, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**