

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4562 of 2016

1. Jagdish Nagwani, S/o. Shri Chandulal Nagwani, aged about 24 years, R/o. Ward No.15 Chakarbhata Camp, P.S.- Chakarbhata, District – Bilaspur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Police Station Chakarbhata, District – Bilaspur (Chhattisgarh)

---- Respondent

For Applicant	: Mr. Saurabh Dangi, Advocate
For Respondent/State	: Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/08/2016

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.141/2016, registered at Police Station – Chakarbhata, District – Bilaspur (C.G.) for the offence punishable under Section 376, 294, 323 and 493 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that a report was made by the prosecutrix on 29.04.2016 that before two years back, the applicant, who is the neighbour one day committed forceful intercourse and on being resisted, it is stated that the applicant would marry her. Subsequently, the relation continued and date of marriage was fixed on 20.12.2015, but ultimately the applicant and the family members refused to marry. Thereby on the pretext of marriage, the sexual

intercourse was committed.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case and the report is delayed by two years. It is further submitted that the prosecutrix is a major lady and in-fact the marriage was fixed and when it was reported that she is elder to the applicant in age, the marriage could not be solemnized for which the applicant was pressurized and the applicant made a report to the police on 06.04.2016 according to Annexure A/2 and thereafter, the report has been made. It is further submitted that it is not a case that the applicant has committed forceful sexual intercourse and the statement if it is taken in its entirety it will not make out the case under Section 376 of I.P.C. It is further submitted that the prosecutrix is a major lady and is a consenting party to the entire incident and charge-sheet in this case has been filed and the applicant is in jail since 03.05.2016, therefore, the 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 appearing for the parties.
6. Perused the case diary and statements. The report was made on 29.04.2016, wherein it is stated that applicant has refused to marry the prosecutrix, thereafter, the report is made. After going through the statement recorded under Section 161 and 164 of Cr.P.C., taking into the fact that report is delayed by two years and the prosecutrix appears to be major lady of 27 years. Taking into such fact without any further 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