

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4899 of 2016

1. Birbal Prasad Bharte, S/o. Chhatram, aged about 30 years, Caste- Suryavanshi, R/o. Village- Nariyara, Police Station – Mulmula, Tahsil – Akaltara, District – Janjgir-Champa (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Police Station – Shivrinarayan, District – Janjgir- Champa (C.G.)

---- Respondent

For Applicant	: Mr. Raj Kumar Jaiswal, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/08/2016

1. This is the second 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.182/2015, registered at Police Station – Shivrinarayan, District- Janjgir-Champa (C.G.) for the offence punishable under Section 376 of Indian Penal Code. The first bail application was dismissed on merits on 24.11.2015 in M.Cr.C.No.6269/2015.
2. Case of the prosecution, in brief, is that a report was made by the prosecutrix alleging that the applicant on the promise of marriage committed sexual intercourse. Subsequently, the applicant got married with another girl. Thereafter, a case has been registered against the applicant for the offence punishable under Section 376

of I.P.C.

3. Learned counsel for the applicant submits that the prosecutrix has been examined before the Court below and the statement of the prosecutrix would show that she was a consenting party and it is not the case of rape, therefore, the counsel prayed 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 statement of the prosecutrix. Detailed statement has been made and the cross-examination has also been made. It would not be proper for this Court to give a finding after evaluating the statement of the prosecutrix as it would amount to decide the trial itself. Taking into statement of the prosecutrix, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge