

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5140 of 2016

- Manoj Choudhary S/o Besahan Choudhary Aged About 23 Years Caste Choudhary, R/o Damdam, Chowki Kotmi, Police Station Pendra, District Bilaspur, Chhattisgarh. -- **Applicant**

Versus

- State of Chhattisgarh through The Incharge, Chowki Kotmi, Police Station Pendra, District Bilaspur, Chhattisgarh. ---
Respondent

For the applicant	:	Mr. U.K.S. Chandel, Advocate
For the Respondent	:	Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

05.09.2016

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. 213/2016 registered at Police Chowki-Kotmi, P.S. Pendra, Distt. Bilaspur (C.G) for the offence punishable under Sections 376 of IPC.
2. As per the prosecution case, a report was filed by the prosecutrix that while she was waiting for the Bus to go to school at that time, the applicant came to her, took her to a forest and thereafter committed forcible sexual intercourse. When she raised alarm, few of the people came there and thereafter the report was made.
3. Learned counsel for the applicant would submit that the prosecutrix is a major lady and she was in love relations with the present applicant and was a consenting party to the entire episode, therefore, no offence is made out against the applicant.
4. Per contra, learned State Counsel opposes the bail.

5. Perused the statements of prosecutrix recorded u/ss 161 & 164 Cr.P.C. In 164 Cr.P.C., statement has been made that with her consent the sexual intercourse was committed. Taking into such statement and age of prosecutrix, without any observation on the merits of the case, I am inclined to allow this bail application.
6. 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