

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6363 of 2016

- Ashish Kumar S/o Jairam Gahawariya Aged About 22 Years R/o Village-Parasdiha Police Station Basantpur Revenue District- Balrampur- Ramanujganj Civil District- Surguja, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through The Police Station- Basantpur District Balrampur- Ramanujganj, Chhattisgarh.

---- **Respondent**

For Petitioner	:	Shri A. N. Pandey, Advocate
For Respondent/State	:	Shri B. Gopa Kumar, Dy.AG

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/10/2016

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.95/2015 registered at Police Station Basantpur District Balrampur- Ramanujganj for the offence punishable under Section 363, 366-A, 376 & 506-B of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 15-09-2015.

3. As per the prosecution case, a report was made by the prosecutrix on 14.09.2015 that when she was scolded at her house at that time she met with the applicant and other co-accused and she was taken to Kharhara Jungle and thereafter when they reached near forest, they stopped the vehicle and both of them committed forceful sexual intercourse and she was also threatened that she may not disclose the fact to any one.

4. Learned counsel for the applicant would submit that the prosecutrix and her father has been examined before the Court below and they have not

supported the case of the prosecution. It is submitted that the main accused-Omprakash has already been granted bail by this Court vide order dated 17-08-2016 passed in M.Cr.C.No.4638/2016. He relied on the statement Annexure A-2 & A-3 and would submit that under the facts and circumstances of the case, the applicant may be released on bail.

5. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that the prosecutrix and her father have turned hostile.

6. Perused the case diary and the statement of the prosecutrix and her father.

7. Considering the submission of learned counsel for the parties and the fact that the main accused-Omprakash has already been granted bail by this Court vide order dated 17-08-2016 passed in M.Cr.C.No.4638/2016, I am inclined to release the applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that the 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.

Sd/-
(**Manindra Mohan Shrivastava**)
J U D G E