

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7532 of 2015

- Kailash Bagh S/O Tirath Ram Bagh aged about 20 Years R/O R. V. H. Colony, Post & P.S. Khamtarai, Tehsil - Raipur Civil & Revenue District - Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through, Station House Officer, Khamtarai, Revenue & Civil District - Raipur Chhattisgarh

---- Respondent

For Applicant : Mr. Sarfraz Kan, Advocate.

For Respondent : Ms. Sobha Kashyap, Panel Lawyer.

Hon'ble Shri Justice Inder Singh Uboweja

Order on Board

08-01-2016

1. This is the second bail application. First bail application was rejected by this court vide order dated 4-11-2015 on merit..
2. Applicant has preferred this bail application under Section 439 of the Cr.P.C. for grant of bail, who has been arrested in connection with Crime No. 227 of 2015, registered in Police Station Khamtarai, District Raipur (CG), for offence punishable under Sections 363 and 376 of the IPC..
3. The case of the prosecution, in brief, is that present applicant abducted the prosecutrix and committed rape on her and thereby committed the aforesaid offence.
4. Learned counsel appearing for the applicants would submit that the applicant has not committed any offence and has been falsely implicated in the case. He would further submit that applicant and prosecutrix were having love affair to each other and she herself had gone with the applicant, therefore it is a case of consent. He would further submit that the applicant is in jail since 21-6-2015 and charge sheet has already been filed, therefore, he be released on bail.

5. On the other hand, learned counsel for the State, opposing the bail application would submit that at the time of the incident the prosecutrix was a minor girl, aged about below eighteen years, therefore, he is not entitled to be released on bail.
6. I have heard learned counsel for the parties and perused the case diary.
7. Taking into consideration all the facts and circumstances of the case, further taking into consideration that after appreciating Dakhil Kharij register available in the case diary, it is clear that the prosecutrix was a minor girl aged about 17 years and also considering the statement of the prosecutrix and further that no new ground is shown to entertain this application, I am of the considered opinion that *prima facie* it is not a fit case where applicant can be enlarged on bail.
8. Accordingly, the second bail application is also liable to be and is hereby rejected.

**Sd/-
(I.S.UBOWEJA)
Judge**