

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3516 of 2016

- Anand Cherwa S/O Late Rajeshwar Cherwa Aged About 23 Years
R/O Bhandar Para, Police Station And Tahsil Baikunthpur, District
Korea Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of
Police Station - Baikunthpur, District Korea Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate

For Respondent/State : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11-07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 2-3-2016 in connection with Crime No. 62 of 2016, registered at Police Station Baikunthpur, District Korea (CG) for the offence punishable under Sections 363, 366, 376 of the IPC and Section 17 of the Protection of Children from Sexual Offences Act, 2012.
2. As per case of the prosecution, on 22-2-2016 a report was made by the father of the prosecutrix that the applicant took away the minor girl from lawful guardian-ship of her parents on the pretext of marriage and thereafter he committed forcible sexual intercourse with her and subsequently his daughter was recovered from the possession of the applicant and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant submits that the applicant has been falsely implicated in the case, the girl who was aged about 16 years was able to understand her well-being and as per her statement recorded under Section 164 of the Cr.P.C., she has not made any allegation of rape. He would further submit that charge-sheet has been filed in this case and the applicant is in jail since 2-3-2016, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail,.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statement of the prosecutrix recorded under Section 164 of the Cr.P.C. wherein no statement of rape has been alleged and in her statement recorded under Section 161 of the Cr.P.C., it is stated that the applicant has performed marriage.
7. Taking into consideration the facts and back-ground of the case and further considering the statements of the prosecutrix recorded under Sections 161 & 164 of the Cr.P.C, charge-sheet in this case has been filed and the applicant is in jail since 2-3-2016, 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 and 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju