

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 69 of 2016

1. Avinash Makhija, S/o. Shri Vijay Makhija, aged about 21 years, R/o. Village- Bijalipara, Ward No.14 Charama, Thana & Tahsil – Charama, Civil and Revenue District – North Bastar Kanker (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer, Police Station – Charama, District – North Bastar Kanker (C.G.)

---- Respondent

AND

M.CR.C. No. 80 of 2016

1. Avinash Makhija, S/o. Shri Vijay Makhija, aged about 21 years, R/o. Village- Bijalipara, Ward No.14 Charama, Thana & Tahsil – Charama, Civil and Revenue District – North Bastar Kanker (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer, Police Station – Charama, District – North Bastar Kanker (C.G.)

---- Respondent

For Applicant : Mr. Sunil Sahu, Advocate

For Respondent/State : Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20/01/2016

1. Both the cases are being tried and heard together since the offence has been committed simultaneously as two girls were ravished and on separate reports, two crime numbers have been registered.
2. These are the first 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.92/2015 for the offence punishable under Section 363/34, 366/34, 376(2)(अ)(द)/34,

343/34, 346/34 and 506(II) of I.P.C. and in connection with Crime No.93/2015 for the offence punishable under Section 363/34, 366/34, 376(2)(अ)(क)/34, 343/34, 346/34 and 506(II) of I.P.C., both crime are registered at Police Station – Charama, District – North Bastar Kanker (C.G.)

3. Case of the prosecution, in brief, is that the applicant and other co-accused persons are alleged to have abducted the prosecutrix and committed gang rape with her and thereby committed offence.
4. Learned counsel for the applicant would submit that the allegation of rape are not attributed to this applicant and only allegation of threatening have been levelled against this applicant that after commission of rape, this applicant and other co-accused has threatened the prosecutrix not to disclose the incident to any one. He would further submit that as per the statement of the prosecutrix, nothing has been attributed to this applicant, therefore, the counsel prays that the applicant may be enlarged on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. I have heard learned counsel appearing for the parties and perused the case diary.
7. Perused the statement of the prosecutrix. At the similar point of time, two girls ravished by different co-accused, who are numbering into 6-8 persons. The prosecution has enlisted 24 prosecution witnesses and out of which 6 witnesses have been examined alongwith the prosecutrix/victims. The way the offence has been committed, only evaluating the statements of the prosecutrix would not be proper at the stage of bail to give a finding unless and until the other witnesses are

examined. The role played by this applicant can not be substantiated which can only be gathered when all the witnesses are examined. Considering the nature of witness, this Court is not inclined to release the applicant on bail.

8. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Balram