

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3056 of 2016

1. Veerbahadur @ Bunti Thakur S/o Late Shree Prasanna Rajput
Aged About 32 Years R/o Village - Antagarh, P.S. - Antagarh,
District - Uttar Bastar, Kanker Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through - In-Charge Police Station -
Antagarh, District - Uttar Bastar, Kanker Chhattisgarh

---- Respondent

For Petitioner	Shri Parag Kotecha, Advocate
For Respondent/State	Shri Lav Sharma, Panel Lawyer
For Objector	Shri Anil Gulati, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19/07/2016

1. This is 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.52/2015, registered at Police Station – Antagarh, District Uttar Bastar, Kanker (C.G.) for the offence punishable under Section 376 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on the pretext of marriage the applicant sexually exploited the prosecutrix and out

of the physical relation a child was born. Subsequently, when the prosecutrix wanted to marry it was refused by the applicant. Thereby the offence has been committed.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case. The prosecutrix was aged about 30 years and the alleged relation developed out of her own consent and no rape can be said to have been committed, therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State as well as learned counsel for the objector oppose the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the case diary and the documents. Perusal of the statement of the prosecutrix recorded under Sections 161 & 164 of the Cr.P.C. shows that the applicant though was married contended that he is not in good relation with his wife and thereafter, on the pretext of marriage the applicant performed sexual intercourse with the prosecutrix and subsequently, refused to marry the prosecutrix. *Prima facie*, at the beginning the applicant though was married had promised to marry prosecutrix, but eventually refused to marry. The document filed by the objector would reveal that the child born out of such relation has preferred an application for maintenance.

7. Considering the facts and circumstances of the case and particularly considering the way the prosecutrix was sexually exploited by the applicant on the pretext of marriage, which appears to be false on its inception, I am not inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge

Gowri