

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3612 of 2016

- Nagendra Kumar Ojha S/O Shri Sita Ram Ojha Aged About 18 Years R/O Presently Fefnarpuri, District Baliya, Uttar Pradesh. Presently R/O Durga Nagar Birgoan, P.S. Urla, Civil & Revenue District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Urla, Civil & Revenue District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Devershi Thakur, Advocate

For Respondent/State : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.07.2016

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 30-11-2015 in connection with Crime No. 264 of 2015 registered at Police Station Urla, District Raipur (CG) for the offence punishable under Sections 363, 366, 376 (2)(N) of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. As per prosecution case, the applicant abducted the prosecutrix on the pretext of marriage and committed forcible sexual intercourse with her and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the prosecutrix has been examined in this case and she has deposed that she has gone with the applicant on her own will and it is further stated that she was in love with the applicant and she would

perform marriage after applicant is released, therefore, no case is made out. He would further submit that the applicant is in jail since 30-11-2015, therefore he may be enlarged on bail.

4. *Per contra*, 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 statements of the prosecutrix and other witnesses.
7. On appreciation of the entire statement of the witnesses and considering the facts and circumstances of the case, in the opinion of this Court, it is left for the trial Court to adjudicate the case on its merit. The trial Court would be in appropriate position to decide the case after the entire evidence is led by the prosecution. It would not be proper for this Court to pick-up certain part of the evidence and adjudicate the same and giving a finding during trial for consideration of bail.
8. Taking into consideration the facts of the case and further considering the fact that the evidence has already been in progress in this case, I am not inclined to entertain the bail application.
9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju