

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3592 of 2016

1. Nilesh Kumar Yadav @ Monu, S/o. Ajay Prasad Yadav, aged about 22 years, by caste- Yadav, R/o. Sangam Nagar, Bela Kachhar, Police Station Balco Nagar, Civil and Revenue District – Korba (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Police Station – Balco Nagar, Civil and Revenue District – Korba (C.G.)

---- Respondent

For Applicant	: Mr. Akhilesh Kumar, Advocate
For Respondent/State	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13/07/2016

1. This is the second 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.154/2015, registered at Police Station – Balco Nagar, Civil and Revenue District – Korba (C.G.) for the offence punishable under Section 323, 376 of I.P.C.. The first bail application was dismissed on merit vide order dated 23.11.2015 in M.Cr.C.No.6209/2015 with liberty to renew the prayer after the prosecutrix is examined.
2. Case of the prosecution, in brief, is that the applicant who is neighbour of the prosecutrix committed sexual intercourse on the pretext of marriage and she became pregnant from the applicant. When the applicant was requested for marriage with prosecutrix, it was turned down, thereby the offence has been committed.

3. Learned counsel for the applicant submits that trial has commenced on 28.12.2015 and out of 12 witnesses, 8 witnesses have been examined and the prosecutrix is not turning up, therefore, the applicant is lodged in jail, therefore, the counsel prays that the applicant may be enlarged on bail for the delay in trial.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the earlier rejection order dated 23.11.2015, passed in M.Cr.C.No. 6209/2015, wherein liberty was given to renew the prayer after examination of the prosecutrix. Till date the prosecutrix has not been examined. After the evidence started on 28.12.2015, 8 witnesses have been examined. Perusal of the order sheet shows that bailable warrant was also issued to the prosecutrix and after her absence the Court has taken coercive steps to procure the presence of prosecutrix by arrest warrant. Therefore, considering the development, no considerable delay appears to exist and the trial Court has taken all the steps to procure the appearance of the prosecutrix. Considering the facts and circumstances of the case I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge