

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3851 of 2016

- Nihal Ansari S/o Khurshid Ansari Aged About 20 Years R/o Village Hua Gadaria, Police Station Hazaribag, Civil & Revenue District Hazaribag, Jharkhand.

---- Applicant

Versus

- State Of Chhattisgarh Station House Officer Tamnar District Raigarh, Chhattisgarh.

---- Respondent

For Applicant : Mr. Manoj Paranjpe and Mr. Prason Agrawal, Advocates

For Respondent/State : Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06-09-2016

1. This is second 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 14-07-2015 in connection with Crime No. 1335 of 2015, registered at Police Station Tamnar, District Raigarh (CG) for the offence punishable under Sections 363, 366/34 of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012. First bail application was dismissed on merits on 1-12-2015.
2. Case of the prosecution, in brief, is that the applicant has enticed the prosecutrix who is a minor girl aged about 15 years on the pretext of marriage. It is alleged that when the prosecutrix came from her paternal house, she was called to Railway Station and thereafter the applicant met the girl and consequently, both went to Rourkela. Thereafter, they went to Ranchi and stayed in the house

of relation of the applicant. The report was lodged by one Lalita Yadav at Police Station Tamnar and thereafter the girl was recovered by the Police at Ranchi.

3. Learned counsel appearing for the applicant would submit that no evidence is being recorded in this case and the applicant is in jail since 14-7-2015, therefore, he may be enlarged on bail.
4. State counsel was directed to verify the dates as to whether delay has been caused in recording the evidence of witnesses. As per communication which is received by the State counsel, it is submitted that initially the case was fixed from 5-4-2016 to 8-4-2016 for evidence, thereafter the case was fixed for evidence from 18-7-2016 to 20-7-2016, however, no reason has been assigned as to why evidence has not been recorded. Thereafter the case was fixed for evidence from 22-8-2016 to 24-8-2016. On 22-8-2016 witnesses were present but due to death of counsel of the applicant, the evidence could not be recorded. On 23-8-2016 other witnesses were present however, they have not been examined. Thereafter, the case was fixed for evidence on 24-8-2016, but the witnesses were not present. Now the case is fixed for evidence from 22-9-2016 to 24-9-2016.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Taking into consideration the facts and circumstances of the case, considering the fact that the case has already been listed for evidence on 24-09-2016 and further considering the statement of the prosecutrix who is aged about 15 years recorded under Section 161 of the Cr.P.C., in which positive allegations have been attributed to the present applicant, I am not inclined to release the applicant on bail.

7. Accordingly, the second bail application is also liable to be and is hereby dismissed.
8. The trial Court is directed to expedite the trial and the trial Court is further directed not to adjourn the case for any its trivial reasons. If witnesses come, the trial Court should examine the same without giving hand to the accused/applicant to raise the ground of delay.

Certified copy as per rules

Sd/-
(Goutam Bhaduri)
Judge

Raju