

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5320 of 2016

- Rajendra Kumar Paikra S/o Shri Ramprasad Paikra, Aged About 35 Years Occupation Govt. Service, R/o Village-Kotba, Chowky-Kotba, Police-Station-Bagbhar, Tahsil-Pathalgaon, Civil & Revenue District-Jashpur, Present Address-Public Health Center Lailunga, District-Raigarh, Chhattisgarh. ---
Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Ghargoda, District-Raigarh Chhattisgarh.
--- **Respondent**

For the applicant	:	Mr. Avinash Mishra, Advocate
For the Respondent	:	Mr. Anupam Dubey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.09.2016

1. This is third bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 304 of 2015 registered at P.S. Gharghoda, Distt. Raigarh (C.G) for the offence punishable under Section 376 of IPC. The first bail application was dismissed on merits on 06.11.2015. the second bail application was dismissed for want of prosecution on 17.06.2016.
2. Case of the prosecution, in brief, is that on 20.09.2015 the prosecutrix lodged a written report against the petitioner before the Police Station Gharghoda alleging that the applicant on the pretext of marriage committed sexual intercourse and subsequently when she became pregnant, at the instance of the applicant, the child was aborted. Consequently it is stated that on the pretext of marriage, she

has been sexually exploited.

3. Learned counsel for the applicant would submit that the the prosecutrix has not turned up despite issuance ofailable warrant and deliberately the witnesses are avoiding to adduce evidence for some reason or the other. He has referred to the order sheet dated 25.04.2016 and would submit that on that date when the presecutrix has not turned up,ailable warrant was issued to her and despite that she did turn up to adduce evidence. It is further submitted that on 27.04.2016 the case was adjourned to 05th, 06th and 07th January 2017 thereby the date of long adjournment of 8 months was given, therefore, under the circumstances, the applicant may be enlarged on bail.
4. Learned state Counsel on instructions and after verification submits that the dates of 05th to 7th January 2017 have been preponed to 15th to 19th December, 2016.
5. A perusal of the order sheets would show that when the matter was taken up in March, some of the witnesses were examined but the rest did not turn up and thereafter other dates were given. Subsequently when the case was taken up on 25th April the witnesses appear to have not turned up and on that date, though the prosecutrix was served but she failed to appear for whichailable warrant was issued. Then the case was again taken up on 27th April and on that day when the witness was not present, the case was adjourned to 5th to 7th January 2016. It is unfortunate that the case has been adjourned to such a prolonged date without taking note of the fact that it is under trial and despite the fact the Court which was dealing as Fast Track Court has given a date of such long adjournment of 8 months.
6. In view of the above facts and circumstances of the case, I

am inclined to release the applicant on bail.

7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

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