

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5526 of 2016

Kaushal Kumar, S/o. Nandkumar Dahariya, Aged About 19 Years, R/o. Village Khapri (Kumhari), Police Station Kumhari, District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Of Police Station Simga, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate

For Respondent : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16.09.2016

1. This is the 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 in connection with Crime No.84/2016 registered at Police Station- Simga, District Balodabazar-Bhatapara (C.G.) for the offence punishable under Section 363, 366, 376 of Indian Penal Code and Section 16, 17, 4 of Protection of Children from Sexual Offences Act. The earlier bail application was dismissed as withdrawn with liberty to revive the same after examination of the prosecutrix.
2. As per the prosecution case, on 29.03.2016 the applicant enticed away the minor girl from the lawful custody of her parents for which the FIR was lodged on 30.03.2016. Thereafter, the girl was recovered from the custody of the applicant and it is alleged that on the pretext of marriage, the applicant has committed sexual intercourse with her; thereby the offence is committed.

3. Learned counsel for the applicant would submit that the prosecutrix in this case has been examined before the Court and she has not supported the case of the prosecution, therefore, the applicant may be released on bail as he has been falsely implicated.
4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he do not able to dispute the fact that the prosecutrix has turned hostile.
5. Perused the statement of the prosecutrix wherein she has not supported the case of the prosecution, therefore, considering the facts and circumstances of the case, without any observation on merit, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge