

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5870 of 2016

Mohinur Moslem Mistrey, S/o. Moslem Mistrey, Aged about 30 years, R/o. Parmadik Para, Visvesverpur, Bhograhat, South 24 Pargana, Thana Raidighi, Civil & Revenue District South 24 Pargana, West Bengal.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Saraipali, Civil & Revenue District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Punit Ruparel, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.09.2016

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 in connection with Crime No.145/2016 registered at Police Station- Saraipali, District Mahasamund (C.G.) for the offence punishable under Section 376, 366, 354, 342, 506, 323, 34 of Indian Penal Code.
2. As per the prosecution case, a report was made by the prosecutrix on 13.05.2016 that the applicant first met prosecutrix and thereafter they became intimate to each other and thereafter they went to different places i.e. Hawrah, Sonarpur, Raigarh and ultimately to Saraipali wherein she was kept in captivity and when she tried to escape, it would reveal that she would be subjected to prostitution and during such time the applicant had committed forceful sexual intercourse with the prosecutrix at Saraipali.
3. Learned counsel for the applicant would submit that the prosecutrix was a consenting party and she of her own went to different places

and no allegation of rape can be attributed to this applicant and other co-accused; therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of the prosecutrix wherein she had stated that she was forced to go into prostitution and kept in captivity. Considering the statement under Section 161 & 164 of Cr.P.C. wherein positive allegations have been attributed, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge