

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6196 of 2016

Shivkumar Yadav @ Jarhu, S/o. Dukhu Ram Yadav, Aged About 26 Years,
R/o. Fokatpara, Indira Nagar, Police Station - Kotwali, District – Korba,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station -
Kusmunda, District – Korba, Chhattisgarh.

---- Respondent

For Applicant : Mr. Aditya Khare, Advocate

For Respondent : Mr. Avinash K. Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04.11.2016

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.71/2013 registered at Police Station- Kusmunda, District Korba (C.G.) for the offence punishable under Section 323, 376(2)(g) of Indian Penal Code.
2. As per the prosecution case, on 12.04.2013, the applicant alongwith other co-accused took away the prosecutrix who was living in a hut and thereafter forcefully gang raped. Subsequently, she suffered Psycho Affective Disorder and was found naked lying near a railway line; thereby the offence has been committed.
3. Learned counsel for the applicant would submit that there is an enormous delay in trial as the prosecutrix has not turned up for evidence, therefore, the applicant may be released on bail.
4. Per contra, learned State counsel vehemently opposes the prayer for grant of bail and would submit that as per the information received and the report, the prosecutrix is lodged in a mental

hospital because of the trauma caused to her and such disease i.e. mental disorder is curable. He submits that at the time of FIR, the prosecutrix was conscious and mentally sound. He further submits even as per the statement of Bhajanlal who has seen the incident that the present applicant alongwith others took away the prosecutrix and thereafter she was subjected to rape would show that the offence has been committed.

5. Perused the case diary and the documents. It appears that the prosecutrix has been lodged in Mental Hospital after the incident. The statement of Bhajanlal also would show that the applicant alongwith other co-accused took away the girl/ prosecutrix and thereafter she was subjected to rape, which is supported by the medical evidence. Taking into such statement, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge