

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6778 of 2016

- Mahesh Razak S/o Pardeshi Ram Aged About 24 Years R/o Village Haradula, Police Station Narharpur, Revenue & Civil District North Bastar Kanker, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through The Police Station Narharpur, District Kanker, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. P.K. Tulsiyan, Advocate

For Respondent/State : Mrs. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09-11-2016

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 on 13-9-2016 in connection with Crime No. 162 of 2016, registered at Police Station Nareharpur, District Kanker (CG) for the offence punishable under Sections 323, 324, 506 & 376 of the IPC.
2. Case of the prosecution, in brief, is that on 12-9-2016 a report was made by the prosecutrix that when she was alone in her house, the applicant entered into her house forcibly and thereafter committed sexual intercourse with her and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in the case, prosecutrix and the applicant were in love relation and she wanted to marry with the

applicant, but due to objection of her parents the marriage could not be performed. He referred to the order sheet of the Court of Judicial Magistrate First Class, Kanker and would submit that before the Court prosecutrix appeared on 23-9-2016 and stated that she wanted to marry with the applicant, however the same could not be granted as Jail Manuals do not permit. He also relies on the communication made to Police by the prosecutrix wherein she has stated that she wanted to marry with the applicant. Therefore, in such eventuality, no rape has been committed. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 13-9-2016 and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. State counsel was directed to verify the report dated 23-9-2016 (Annexure A/3) wherein she denied the entire allegations. State counsel submits that the prosecutrix could not be contacted as she was not available, therefore, report could not be obtained.
6. I have heard learned counsel for the parties, perused the case diary and other documents.
7. Perused the order sheet of the Court of Judicial Magistrate, First Class, Kanker and the communication made to Police by the prosecutrix which would show that the prosecutrix wanted to marry with the applicant.
8. Taking into consideration the facts and circumstances of the case, nature of allegations leveled against the applicant and further considering the order sheet of the court of JMFC and the communication made to Police and also the fact that charge-sheet

in this case has been filed and the applicant is in jail since 13-9-2016, this court is inclined to release the applicant on bail.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju