

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7928 of 2016

- Hemsagar S/o Shriram Chouhan Aged About 25 Years R/o Village - Tilakpur, Thana - Basna, Civil & Revenue District - Mahasamund Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through, Station House Officer, Police Station - Basna, Civil & Revenue District - Mahasamund Chhattisgarh

---- **Respondent**

For Applicant : Mr. Sunil Sahu, Advocate

For Respondent/State : Mr. Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13-12-2016

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 23-06-2016 in connection with Crime No. 156 of 2016, registered at Police Station Basna, District Mahasamund (CG) for the offence punishable under Sections 376 (D) of the IPC.
2. As per prosecution case, on 21-6-2016 a report was made by the prosecutrix that the present applicant took away the prosecutrix to Jammu & Kashmir where he committed forcible sexual intercourse with her on the pretext of marriage and thereafter they came back to Bilaspur, but the marriage was not performed. Thereafter, subsequently again she was subjected to rape by the present applicant and other co-accused persons 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, the prosecutrix is aged about 25 years and was a consenting party. It is further submitted that prosecutrix has not supported the prosecution case which would be evident from her statements in paragraphs 21, 22 and 23. He would further submit that the charge-sheet has been filed in this case, he is in jail since 23-6-2016 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. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statement of the prosecutrix wherein no positive allegations have been attributed to the applicant.
7. Taking into consideration the facts and circumstances of the case and further considering the statement of the prosecutrix, without any observation on the merit of the case, I am inclined to release the applicant on bail.
8. 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