

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 76 of 2017

- Gajanand Sethiya @ Gajju S/o Kacharu Ram Sethiya Aged About 20 Years Residing At Village Dhanora Kalapara, Police Station Dharora, District Revenue & Civil District Kondagaon, Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through The Police Station Farasgaon, District Kondagaon, Chhattisgarh.

---- Respondent

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

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

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17-01-2017

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 15-09-2016 in connection with Crime No. 75 of 2016, registered at Police Station Farasgaon, District Kondagaon (CG) for the offence punishable under Section 376 (2)(n) of IPC and Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. As per prosecution case, a report was made by the prosecutrix on 14-9-2016 that she was in love relation with the present applicant and subsequently some social meeting took place wherein initially the family members of the applicant stated that they would not perform the marriage of the prosecutrix with present applicant. Subsequently, the applicant met the prosecutrix on 30-7-2016 and expressed his desire to marry her and on the pretext of marriage he took the prosecutrix to

Narayanpur and they stayed together in the rented house from 30-7-2016 to 4-9-2016 and committed sexual intercourse with her. Subsequently family members of the applicant came there and took away the applicant 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, on the date of incident the prosecutrix, who was stated to be minor, did not attain the majority, therefore, marriage could not be performed and filed affidavit of Kacharu Ram Sethiya, who is father of the applicant and stated that they are ready to perform marriage of the prosecutrix with the applicant. 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, perused the case diary and documents.
6. Perused the statement of the prosecutrix and also the affidavit of Kacharu Ram Sethiya, who is father of the applicant wherein it is stated that they are ready to perform marriage of the prosecutrix with the applicant.
7. Taking into consideration the facts and circumstances of the case and further considering the statement of the prosecutrix and affidavit of the father of the applicant, without further observation on the merits 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.

9. The trial Court is directed to communicate the submissions made by the father of the applicant that they are ready to perform the marriage of the prosecutrix with the applicant to the prosecutrix. Photo copy of the affidavit may also be placed at the time of furnishing the bail bond.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju