

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8322 of 2016

- Tarun Kumar Chouhan S/o Shri Ram Prakash Singh Aged About 32 Years R/o Punjabi Colony, Mainpuri, Police Station , Mainpuri, Uttar Pradesh. --- **Applicant**

Versus

- State of Chhattisgarh through Police Station Outpost Wadrafnagar, Police Station Basantpur, Balrampur-Ramanujgang Chhattisgarh. --- **Respondent**

For the applicant : Dr. N.K. Shukla, Senior Advocate with Shri Jitendra Shrivastava, Advocate.

For the State : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

31.01.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 116/2016 registered at Police Outpost Wadrafnagar, P.S. Basantpur Distt. Balrampur-Ramanujganj (C.G) for the offence punishable under Sections 376(2) (Dha) of IPC and Section 3(2)(v) & 3(1-Dha) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. As per the prosecution case, a report was made by the prosecutrix on 08.10.2016 that for the period from 23.07.2015 to 27.02.2016, the applicant assured the victim and on the promise of marriage committed forcible sexual intercourse and thereafter refused to marry the prosecutrix.
3. Learned counsel for the applicant would submit that the incident is alleged to be of the period from 23.07.2015 to

27.02.2016 and on 27.2.2016 the applicant was at Lucknow. It is submitted that the applicant has been falsely implicated and the prosecutrix was a major lady and was consenting party and she wanted money which would be evident from whatsapp message sent by the prosecutrix on her mobile number which tallies with the number mentioned in the FIR, therefore, taking into such message no offence is committed. He further submits that the charge sheet has been filed and the applicant is in jail since 25.11.2016, therefore, he may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail. On earlier two occasions i.e., 6.01.2017 and 18.01.2017, the State was directed to verify the authenticity of Whatsapp message. Today also again time is sought by the State.
5. Perused the statement of the prosecutrix as also the Whatsapp message which is filed by the applicant. Considering the whatsapp message as also the statement of the prosecutrix recorded u/s 164 Cr.P.C., without any further observation on merits of the case, I am inclined to allow this bail application.
6. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

GOUTAM BHADURI
JUDGE