

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 203 of 2017

Sanjay Gayakwad, S/o. Bahoran Gayakwad, Aged About 20 Years, R/o. Gondpendry, Police Station Utai, District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Chowki Machandur, Utai, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shrawan Agrawal, Advocate

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

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

25/01/2017

1. This is the second 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.223/2015 registered at Police Station- Chowki Machandur, Utai, District Dug (C.G.) for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Section 4, 5 of Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, the prosecutrix who was a minor was enticed away by the present applicant on 11.08.2015 from the lawful guardianship of her parents and thereafter on the pretext of marriage she was subjected to forceful rape. Subsequently, the girl was recovered from the possession of the present applicant on 16.08.2015. Thereby, the offence has been committed.
3. Learned counsel for the applicant would submit that this is the second bail application, the earlier bail application was dismissed as withdrawn on 13.01.2016 with liberty to repeat the same after

examination of the prosecutrix. It is stated that now the prosecutrix has been examined and she has not supported the case of the prosecution, therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that the prosecutrix and her mother have been examined they have turned hostile.
5. Perused the case diary and the statement of the prosecutrix and her mother wherein they have not supported the case of the prosecution. Taking into such statement, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.

Sd/-
(Goutam Bhaduri)
Judge