

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1006 of 2017

Prahlad Sonwani @ Bhakt Prahlad (Named as Ankit Soni @ Bhakt Prahalad Sonwani in the Lower Court Case), S/o. Narayan Sonwani, Aged About 24 Years, R/o. Village Mahendragarh, Post- Khamaripara, Police Station Mainpur (Chowki- Nawagarh) District – Gariyaband, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- Rajim, District Gariyaband, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shashi Kumar Kushwaha, Advocate

For Respondent : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21/03/2017

1. This is the third 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.10/2016 registered at Police Station- Rajim, District Gariyaband (C.G.) for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Section 4, 5, 6 of POCSO Act.
2. As per the prosecution case, on 09.05.2016 the father of the prosecutrix made a report that his daughter, minor girl, is missing. Subsequently, the girl was recovered from the possession of the present applicant on 26.05.2016 and during investigation, it revealed that the present applicant allured the girl and taken away from the lawful guardianship of the father & mother knowing herself to be minor and on the pretext of marriage committed forceful sexual intercourse with her.

3. Learned counsel for the applicant would submit that this is the third bail application, the first bail application was dismissed as withdrawn on 18.07.2016 with liberty to revive the same after examination of the prosecutrix and the second bail application was dismissed on 26.08.2016. He submits that since earlier liberty was given that the petitioner may revive the bail application, after examination of the prosecutrix, therefore, the present bail application is filed. It is submitted that the prosecutrix has been examined and her statement would show that she was a consenting party and she was able to understand her well being and she is not an absolute minor. She herself has gone along with the present applicant and stayed quite period of time, therefore, the applicant has not committed any offence. He further submits that because of the resistance of the mother of the prosecutrix, they could not marry and the applicant is ready and willing to perform marriage with the prosecutrix, which would be evident from the statement of the prosecutrix and the applicant; therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement of the prosecutrix wherein it is stated that the prosecutrix is ready and willing to perform marriage with the applicant. The statement of the applicant would also show that he is ready and willing to marry with the prosecutrix. Taking into the totality, 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

Ashok