

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.2295 of 2017

- Sujit Vishwarkarma S/o Jayram Vishwakarma Aged About 32 Years R/o Shambupurpara. Tahsil Budhanpur, Police Station Adhiroula, District Ajamgarh, Uttar Pradesh. At Present R/o Makhan Vihar, Patpariya, Subhash Nagar, Police Station Gandhi Nagar, District Surguja, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Jaynagar, District Surajpur, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Jitendra Shrivastava, Advocate
For Respondent/State	:	Shri Sangharsh Pandey, Dy.AG

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/05/2017

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.190/2016 registered at Police Station Jaynagar, District Surajpur for the offence punishable under Section 363, 366 & 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution is that the applicant kidnapped the prosecutrix and thereafter, committed rape on her.
4. This is second application for grant of bail. First application was dismissed as withdrawn.
5. Learned counsel for applicant argued that the second application has

been moved in the changed circumstances that the most important prosecution witness of the prosecution namely prosecutrix has been examined during trial and she has clearly stated that no rape was committed on her nor she was kidnapped by the applicant. He lastly submitted that at this stage, the applicant may be granted bail.

6. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that looking to the nature and gravity of allegation and that number of prosecution witnesses are yet to be examined, therefore, the applicant is not entitled to bail.

7. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicant that the prosecutrix has not supported the prosecution case and turned hostile by stating that the applicant has not committed rape on her nor she was kidnapped by the applicant and that the applicant is in jail since 21-10-2016, the application is allowed.

8. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. He shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(**Manindra Mohan Shrivastava**)

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