

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7039 of 2017

Amarnath Jaiswal S/o Shivkumar Jaiswal Aged About 24 Years R/o
Village Khukri , Police Station Rajpur District Balrampur
Chhattisgarh .

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Rajpur , District
Balrampur Chhattisgarh.

---- Respondent

For applicant - Shri Rakesh Pandey, Advocate.
For Respondent/State –Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/11/2017

1. This is second bail application under section 439 of Cr.P.C. The earlier bail application was dismissed as withdrawn on 21/03/2017 vide M.Cr.C. No.1403/2017 with liberty to repeat the same after examination of the prosecutrix.
2. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No.152/2016 registered in Police Station Rajpur, District Balrampur (C.G.) for offence punishable under sections 376, 323 & 506 of IPC.
3. Case of the prosecution, in brief, is that in the month of November, 2016 while the prosecutrix was on her way, the applicant gave her lift, thereafter took her to the forest and committed sexual intercourse. Thereby, offence has been committed.
4. Learned counsel for the applicant submits that infact the entire allegation is false as would be evident from the statement of mother of the prosecutrix wherein she has categorically stated that in order to save themselves from the proceeding of a criminal case, false report was

made. Learned counsel therefore submits that the applicant may be released on bail.

5. Learned State counsel opposes the prayer for grant of bail.

6. Perused the statement of the prosecutrix PW-1 and mother of the prosecutrix PW-3. Since positive statement have been made by the prosecutrix and other statement have been made by mother of the prosecutrix PW-3, it would be for the trial court to adjudicate the same after entire evidence is complete. Therefore, it would not be proper for this court to give a finding while hearing bail by usurping power of the trial court.

7. Accordingly, I am not inclined to re-consider this second bail application and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE