

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. NO. 2311 OF 2016

Ramashraya Jaiswal, S/o Firulal, aged about 25 years, R/o Village Ghoghari, P.S. & Tahsil - Dabhara, District Janjgir-Champa (C.G.)

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station-Kharsiya, District Raigarh (C.G.)

... Non-applicant

For Applicant	:	Mr. F.S. Khare, Advocate.
For Non-applicant/State	:	Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/06/2016

1. This is the first application filed under Section 439 of CrPC for grant of bail to Applicant who has been arrested on 21.12.2015 in connection with Crime No. 630/2015 registered at Police Station Kharsiya, District Raigarh, for the offence punishable under Sections 376, 493, 417, 506 & 507/34 of IPC.
2. Case of the prosecution is that on 17.5.2015 at around 4:00 am the Applicant had called the prosecutrix out of her parental home where she had come after marriage and took her to Odisha where she stayed with the Applicant for a period of three weeks and on 11.6.2015 he brought her back to Kharsiya at District Raigarh where he left her and thereafter she went to her native place at District Korba. Subsequently, a written complaint was lodged by her on 20.12.2015 on the basis of which a case has been registered against the Applicant for the aforementioned offences.

3. Counsel for the Applicant submits that the narration of the fact of the written complaint would itself establish the fact that the prosecutrix admittedly was a major married lady aged about 21 years and that it is further reflected from her written complaint that there was a consensual relationship between the Applicant and the prosecutrix. He further submits that there was sufficient time for the Prosecutrix from 17.5.2015 to 11.6.2015 during which time she was in company of the Applicant to raise alarm and also objecting to the alleged act committed by the Applicant.

4. Counsel for the State opposing the application submits that there is a specific statement made by the Prosecutrix against the Applicant of having committed rape after repeatedly giving threat of life to the prosecutrix and therefore he should not be granted bail.

5. Having considered the facts and circumstances of the case particularly the contents of the written complaint and the delay in lodging the FIR, this Court is of the view that it is a fit case where the Applicant can be released on bail.

6. Accordingly, the application for grant of bail is allowed. It is directed that in case the Applicant furnishes a personal bond for a sum of **Rs. 20,000/- with one surety** of the like amount to the satisfaction of the concerned Trial Court then he shall be released on bail on the following further conditions:-

(i) that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

(ii) that the Applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iii) that the Applicant shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(P. Sam Koshy)
V. Judge