

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No.2570 of 2016**

Kishan @ Krishna S/o Lt. Ram Shankar Aged About 25 Years R/o Gharola
Mohalla Ward No. 17, Telsohagpur District Shahdol (M.P.)

-----Applicant**Versus**

State Of Chhattisgarh Through P.S. Manendragarh, District Korea Chhattisgarh

-----Non-Applicant

For Applicant:	Shri Arvind Singh, Advocate.
For Non-Applicant/State:	Shri Adhiraj Surana, Dy. Govt. Advocate for the State.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

06.6.2016

1. The present Applicant has preferred this application under Section 439 Cr.P.C for grant of bail as he is arrested in connection with Crime No.303/2015 registered at Police Station – Manendragarh, Distt. Korea (CG) for the offence punishable under Sections 366, 376(2) (d) and (n) IPC along with Section 66 of the Information Technology Act.

2. The allegation made by the prosecutrix against the present Applicant is that on 18.5.2015, on the pretext of marriage, he took her to Shahdol, Orissa and Bhopal and kept her along with him for a period of 2 ½ months – 3 months and thereafter, it is said that he has abandoned her. Since the present Applicant had refused to keep the prosecutrix with him as his wife, the present compliant has been lodged on 12.12.2015 based upon which the present Applicant has been arrested on 17.12.2015.

3. Learned Counsel for the Applicant submits that the prosecutrix in the instant case was already a married lady aged 22 years and that the contents of the complaint by itself would clearly show that the prosecutrix had gone with the present Applicant with her consent and willingness and that there was sufficient time for her to oppose the alleged acts committed by the present Applicant if at all she was not consenting or she was not ready to have any relations with him. He further submits that the incident alleged is of 18.5.2015 but the First Information Report in the instant case has been lodged only after about 7 months i.e. 12.12.2015 and there is no proper, justifiable and plausible explanation for the delay of 7 months in the lodging of First Information Report.

4. On the other hand, counsel for the State opposed the prayer on the ground that the delay part has been explained by the prosecutrix by stating that the Applicant and the co-accused were in possession of certain CDs which they threatened to expose if she lodges any complaint with the police authorities. But during the Course of investigation, no such CDs or any such materials have been recovered or seized by the prosecution thereby creating a doubt on the submission made by the prosecutrix offering explanation for the delay caused.

5. Having heard learned counsel for the parties, taking into consideration the total facts and circumstances of the case particularly keeping in mind the fact that the prosecutrix was already a married lady aged 22 years and therefore, there was no occasion for the Applicant to have given any assurance of marrying her. Secondly, there was an inordinate unexplained delay in lodging of the First Information Report. Therefore, I am of the opinion that it is a fit case where the present Applicant can be released on bail.

Accordingly, the application is allowed. It is directed that in the event of the Applicant's executing a personal bond for a sum of Rs.25,000/- with one surety for the like amount to the satisfaction of the Trial Court, he shall be released on bail. He 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)

Vacation Judge

Priya