

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1098 of 2016

- Tekchand Jaiswal S/o Shri Vijay Kumar Jaiswal Aged About 27 Years R/o Village Sarwani, Police Station & Tahsil Kharsia, District Raigarh, Civil & Revenue District Raigarh, Chhattisgarh. **--- Petitioner**

Versus

- State of Chhattisgarh Through Police Station Kharsia, District Raigarh, Chhattisgarh. **--- Respondent**

For the applicant : Mr. M.K. Sinha, Advocate.
For the State : Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.12.2016

1. Apprehending arrest in connection with Crime No. 395 of 2016 registered at Police Station Kharsia, Distt. Raigarh (C.G) for the offences punishable under sections 376 & 493 IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, on 21.09.2016 a report was made by the victim that on 29.05.2016 the applicant took her to Ratanpur for performing marriage in temple and on 31.05.2016 he placed vermilion on her fore-head and accepted the victim as wife and thereafter both the applicant and the victim were living together and she was subjected to physical relations. Thereafter one affidavit was executed on 02.06.2016 that they are husband and wife. Subsequently the applicant left home on 14.09.2016 for his job thereafter when the phone call

was made, the applicant did not respond to it, the report was made.

3. Learned counsel for the applicant would submit that as per the affidavit enclosed with the bail application it would go to show that the applicant and victim have voluntarily married together without any fear and pressure and they are living as wife and husband. It is submitted that due to some misunderstanding the report has been made and even she was a major lady, therefore, no offence is made out.
4. Per contra, learned State Counsel opposes the prayer.
5. Perused the affidavit wherein it is stated that both the applicant and complainant have married which finds a reference in the FIR also. Taking into such fact and the age of the girl, I am inclined to allow this bail application.
6. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-
 - (i) that he shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that he 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 any police officer;

- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

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