

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. No. 5857 of 2017

Javed Khan @ Sonu S/o Kalim Khan, aged about 32 years, occupation driver, R/o Maharana Pratap Chowk, Sahashlohara, Police Station and Tahsil Sahashlohara, District Kabirdham (C.G.).

--- Applicant

Versus

State Of Chhattisgarh Through the S.H.O. Police Station Kawardha, District Kabirdham (C.G.).

---Non-applicant

For Applicant	:	Shri Ajit Singh, Advocate.
For Respondent/State	:	Shri Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/11/2017

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.228/2017 registered at Police Station Kawardha, District Kabirdham (C.G.) for the offence punishable under Section 376 of I.P.C.
2. Present applicant is in jail since 12/08/2017.
3. As per the prosecution case, on 03/08/2017, the present applicant is said to have called the prosecutrix to Kawardha for getting there marriage registered and when the prosecutrix came to Kawardha, the present applicant had arranged a hotel room where she was to freshen up when the present applicant is said to have entered into the hotel room and have locked her inside and raped her. Further, he is said to have refused to marry her which forced her to lodge the report.
4. The counsel for the applicant submits that, it is a case where the prosecutrix herself is a 32 years old lady and that the present applicant has been falsely implicated in the said case and that the present applicant

has not committed any offence. He further submits that, there is also a considerable delay in lodging of the F.I.R. as the alleged incident took place on 03/08/2017 and the F.I.R. was lodged only on 11/08/2017 and there was no proper explanation has been given in the delay in lodging of the F.I.R.

5. The State counsel however opposing the bail application submits that, it is a case where on the pretext of marriage, the present applicant is said to have sexually ravished the prosecutrix and subsequently has refused to marry her. He further submits that, the prosecutrix was called to Kawardha on an assurance of taking her to the office of the registrar for marriage, but later on, the present applicant is said to have taken her to a lodge where he has committed rape. He further submits that, the present applicant has got the criminal track record of many cases lodged against him.

6. Having considered the contentions put forth on either side and on perusal of record, admittedly, the prosecutrix in the instant case is a grown up lady and that she had voluntarily gone to Kawardha and there it is said that the present applicant is said to have committed rape. Further from the conduct it does not seem that, there was any sort of resistance made by the prosecutrix when the present applicant is said to have raped her. Neither is there any type of objection made by the prosecutrix. The F.I.R. itself was lodged after about a week's time on 11/08/2017 and the only explanation given about the delay in lodging of the F.I.R. is that, the prosecutrix was under the assurance that the present applicant would marry her.

7. Considering the aforesaid factual matrix of the case, prima-facie, there appears to be a case of consensual relationship between the two

and therefore this Court is of the opinion that, a strong case has been made out for grant of bail to the present applicant.

8. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

Sumit

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