

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 6293 of 2017**

Ashutosh Gupta S/o Narayan Prasad Gupta, aged about 26 years, R/o Kashyap Colony, Street No. 4, Police Station City Kotwali, Bilaspur District Bilaspur, Chhattisgarh. **---- Applicant**

Versus

State of Chhattisgarh through Police Station City Kotwali, Bilaspur District Bilaspur, Chhattisgarh. **---- Respondent**

For Applicant	:	Shri Manoj Paranjpe, Advocate
For Respondent/State	:	Shri Garry Mukhopadhyay, Dy. G.A.
For Objector	:	Shri Ashok Dixit, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28/11/2017**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who has been arrested in connection with Crime No. 283/2017 registered at Police Station City Kotwli, Bilaspur (CG) for the offence punishable under Sections 354, 506, 509 & 376 of IPC. The applicant is in jail since 31.08.2017.

2. Counsel for the applicant submits that initially the victim in the instant case had filed a written complaint on 05.07.2017 on the basis of which the applicant was charged for the offence under Sections 354, 506 & 509 of IPC on which he had moved a bail application which was allowed on 06.07.2017. Subsequently, the statement under Section 161 CrPC of the victim was recorded. Counsel for the applicant referred to the written complainant as also to the statement of the victim under Section 161 CrPC and highlighted the aspect that there is no allegation of any physical relationship or rape being committed by the applicant against the victim. Subsequently after about a month's time, the supplementary statement was recorded on 06.08.2017

wherein for the first time the allegation of the applicant having committed sexual intercourse with the victim has been mentioned. Counsel for the applicant submits that such an offence has not been reflected in either the written statement or the statement under Section 161 CrPC, therefore it clearly reflects the after thought story prepared on the part of the victim to further implicate the applicant and to harass him.

3. Counsel for the State, however, opposes the bail application on the ground that the applicant had been trying to blackmail the victim with the aid of certain photographs that he had with him of the victim pursuant to the friendship that they had. A similar objection has also been raised by the counsel for the Objector.

4. Having heard the counsel on either side and on perusal of the record what reflects is that when the written complaint was made, there was no allegation of any sexual assault. Likewise, when the statement under Section 161 CrPC was recorded, even then the victim was silent on the sexual aspect and it was only after a month's time when the supplementary statement was recorded, an offence of rape has been alleged by the victim for the first time.

5. In the given facts and circumstances of the case, this Court is of the opinion that prima facie, a strong case for grant of bail is made out.

6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE