

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 6695 OF 2017

Rakesh Kumar Kaiwartya S/o Late Hiralal Kaiwartya, aged about 27 years,
R/o Mahantpara, Ward No.4, Shivrinarayan, District Janjgir Champa (CG).

... Applicant

Versus

State of Chhattisgarh, through Police Station Shivrinarayan, Distt. Janjgir
Champa (CG).

... Respondent

For Applicant	:	Ms. Mandavi Bhardwaj, Advocate.
For Respondent-State	:	Shri Gary Mukhopadhyay, Dy. GA.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/12/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 22.05.2017 in connection with Crime No. 86 of 2017 registered at Police Station Shivrinarayan, Distt. Janjgir Champa, for the offence punishable under Sections 376 (2) (1) /34, 506 IPC and Section 4 of POCSO Act.
2. As per prosecution case, the allegation against the applicant is that he is said to have assisted the main accused Mukesh, the younger brother of the present applicant, in commission of rape on the prosecutrix and the role played by the applicant is that when the prosecutrix entered into the room of main accused, he is said to have forcefully closed the door and have locked the room from outside and inspite of request being made by the prosecutrix to open the door, he did not open the door and have opened the same only after ½ hour during which time the main accused is alleged to have committed an act of rape.

3. Learned Counsel for the applicant submits that the applicant has falsely been implicated in the case inasmuch as in the FIR lodged on 21.04.2017 there was no reference of any act or overt act on the part of the applicant and that it is only after about 7 days from the date of lodging of FIR the allegation of rape and the role of present applicant has been divulged for the first time by the prosecutrix and therefore, the present applicant may be released on bail.
4. Counsel for the State opposes the bail application and submits that because of threat FIR was lodged belatedly and that it was only after the arrest of main accused, the prosecutrix could gather strength to lodge FIR against two persons.
5. Considering the facts and circumstances of the case particularly taking note of the fact that the date of incident being 15.03.2017 and FIR being lodged on 21.04.2017 and the allegation so far as present applicant is concerned being made for the first time after 7 days of lodging FIR on 28.04.2017, prima facie a strong case is made out and this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
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 for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge