

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1244 of 2017

Indrapal S/o Bisahu, Aged About 35 Years R/o Village Bandha, Police Station Pandariya, District Kabirdham, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through : The Police Station Pandariya, District - Kabirdham, Chhattisgarh

---- Respondent

For Applicant	:	Shri P.P. Sahu, Advocate
For Respondent/State	:	Shri Samir Behar, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.14 of 2017 registered in Police Station- Pandariya, District -Kabirdham (C.G.) on the allegation of having aided commission of offence of rape by co-accused Nohar punishable under Section 376 read with Section 34 IPC and Sections 3 & 4 of the Protection of Children for Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated. He submits that the prosecutrix initially made an allegation that one Nohar committed sexual intercourse with her in a room behind the ration shop of the present applicant and the applicant facilitated this act, however, in her statement under Section 164 Cr.P.C., she has named one Komal as the person who committed rape on her and the allegation against the present applicant is that the applicant asked the prosecutrix to come inside the room whereafter the room was locked and then co-accused Komal committed rape on her, but she has said that she does not want any action to be taken against Komal, which

prima facie, shows that the prosecutrix and Komal had some affair and when prosecutrix's mother came and they were caught red-handed, the applicant has been falsely implicated.

3. On the other hand, learned counsel for the State has opposed the bail application. He submits that Nohar and Komal are one and the same . He also submits that even though the applicant has not committed offence, the applicant asked the prosecutrix to go inside the room where she was locked and then Komal committed rape on the prosecutrix and thus the applicant facilitated commission of offence.
4. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration that the allegation of commission of offence of rape is on the co-accused and not the applicant and further taking into consideration that the applicant is said to be a person suffering from disability of 80% and taking into consideration the statement of the prosecutrix that she does not want any action to be taken against Komal and that the incident was disclosed upon arrival of mother of the prosecutrix, I am inclined to enlarge the applicant on bail.
5. The application is accordingly allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge