

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 2205 of 2017**

Santosh Kumar Soni, S/o. Late Ramdev Soni, aged about 32 years,
R/o. Mulajimpara, Ward No.3, P.S. and Tahsil Sitapur, District
Surguja, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through the Police Station Sitapur, District
Surguja, Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Manoj Paranjpe, Advocate
For State	:	Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/10/2017**

1. The present is an application under Section 439 of Cr.P.C. for grant of bail to the applicant. The applicant is in jail since 31.01.2017, in connection with Crime No. 26/2017, registered at Police Station Sitapur, District Surguja, Chhattisgarh for the offence punishable under Sections 341, 363, 342, 376(2)(g), 506 read with Section 34 of Indian Penal Code and Section 3(2)(v) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989.
2. As per the prosecution, the present applicant along with the co-accused Yakub @ Hemant Das abducted the prosecutrix and have taken her to an isolated place i.e. to a brick kiln, where she was confined to a room for a period of more than 3 days and thereafter she was released. During the period the present applicant and the co-accused is said to have raped the prosecutrix.
3. The counsel for the applicant submits that it is a case where the prosecutrix herself, a married lady aged around 34 years, has been examined before the Court below and in her deposition itself, it

would reflect that it does not appear to be a case of abduction, rather it appears to be a case where the prosecutrix has voluntarily gone along with the accused persons. He further submits that it is a case where the nephew of the husband of the prosecutrix having witnessed the vehicle of the prosecutrix at an isolated place had informed the husband and only thereafter the complaint was lodged falsely implicating the present applicant and thus prayed for the release of the applicant on bail.

4. The State counsel opposing the bail application submits that it is a case where the prosecutrix has specifically named the present applicant and the co-accused Yakub @ Hemant Das to have sexually exploited her and therefore the statement of the prosecutrix cannot be brushed aside and prayed for the rejection of the bail application.
5. Having considered the submissions put forth on either side and on perusal of the records, particularly the statement of the prosecutrix recorded during the course of the trial, wherein it clearly reflects that she had ample opportunity to raise an alarm and to seek for help at different occasions, but it appears that she had not raised any such alarm while she was being taken from one place to another.
6. Considering the statement of the prosecutrix particularly the fact that en route the petrol of the vehicle, in which she was being taken, had got finished and the vehicle had to be stopped for filling up the petrol, even at that point of time the prosecutrix did not show any sign of resistance or raise an alarm or cried for help, which in the opinion of this Court shows and reflects, prima facie, an element of consent on the part of the prosecutrix.

7. For all the aforesaid reasons, this Court is of the opinion that strong case for grant of bail has been made out.
8. 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 Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved