

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3129 of 2017**

Santram Sahu S/o Janak, Dulari Sahu, Aged About 45 Years R/o Balak Ashram, Pidiyakot, Police Station Orchha, District- Narayanpur, Originally R/o Goregaon, Police Station Nagri, District- Dhamtari, CG.

---- Applicant

Versus

State of Chhattisgarh Through The Police Station- Geedam, District Dantewada, Chhattisgarh

---- Respondent

For applicant	Mr. P.R. Patankar, Adv.
For Respondent/State	Mr. Vasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****3-7-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 24-12-2016 in connection with Crime No. 124/2016 registered in PS Geedam, Distt. Dantewara for offence punishable under Section 363, 366, 376, 506-II of the Indian Penal Code, 1860 and Section 3 sub-section (1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (In brevity 'SCST Act').
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the Special Judge, authorized to try the cases under the SCST Act as Special Sessions Trial No. 1/2017. The prosecutrix is a major lady aged about 20 years. The incident is of 11-12-2016 at 9 to 11 pm and the FIR was lodged on 11-12-2016 at 11.30 am. The prosecutrix was a consenting party. She had not protested at the time of incident. The applicant is a government servant. He is in jail since more than 6 months. He may be granted bail.

4. Per contra, learned counsel for the State opposes the bail application
5. Perused the matter.
6. Police during investigation recorded the statement of the prosecutrix under Section 161 of the Cr.P.C. Her statement under Section 164, Cr.P.C. is also recorded by the Judicial Magistrate. On due consideration of the entire matter, prima facie for the purposes of instant MCRC, it does not appear that she was in any way a consenting party. The applicant was the person who helped the prosecutrix prior in admitting the husband of the prosecutrix as he was ailing and when prior to the incident she came out of hospital to purchase some cooked food for her husband, the applicant met her outside of the hospital and took her to a hotel to purchase cooked food and thereafter the applicant had taken her to another place and committed sexual intercourse though the prosecutrix duly protested the said act. The applicant is a teacher. Upon considering entire facts, I am not inclined to grant bail to the applicant.
7. Consequently, instant MCC is dismissed.
8. As per settled law, the trial Court during trial shall not be influenced by any of the observations made in the order.

Sd/-
(Chandra Bhushan Bajpai)
Judge