

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3419 of 2017

- Mohammed Irfan Khan S/o Mohammed Sattar Khan, Aged About 30 Years Occupation Truck Driver, R/o Village- Podi Tola, Police Station Bodla, District Kabirdham Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station (City Kotwali), Kawardha, District- Kabirdham, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Rakesh Pandey, Advocate.
For Respondents/State	:	Shri Dilman Rati Minj, Deputy G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/06/2017

1. The applicant is in jail since 08.04.2017 in connection with crime No. 78/2017 registered at Police Station City Kotwali, Kawardha, Dist. Kabirdham (C.G.) for commission of offence punishable under Section 376 of the I.P.C.
2. Case of the prosecution is that on the pretext of marriage, the applicant is said to have physical relationship with the prosecutrix for a considerable period of time and thereafter he is said to have refused to marry her, which lead to filing of F.I.R.
3. Learned counsel for the applicant submits that the prosecutrix is fully grown-up girl, aged about 26 years and that there was an affair between the present applicant and the prosecutrix for a considerable period of about more than 5 years, during which time, both the applicant and the prosecutrix had voluntary physical relationship on several occasions, which itself shows that the physical relationship maintained between the two was consensual.

4. On the other hand, learned State Counsel opposes the bail application on the ground that on the pretext of marriage the applicant is said to have ravished the prosecutrix and after committing sexual intercourse on several occasions, has refused to marry her, and therefore, the act on the part of the applicant would fall within the definition of rape, as defined under Section 375 of the I.P.C.
5. Considering the total facts and circumstances of the case, particularly, the initial written complaint of the prosecutrix and also the subsequent statement under Section 164 of the Cr.P.C., which reflect that there was vast variations in her versions and also there appears to be more omissions and contradictions in the two statements and further taking into consideration the age of the prosecutrix and the fact that the prosecutrix voluntarily, without any reservation, had maintained the physical relationship with the applicant for a considerable period of about 5 years, this Court is of the opinion that it is a fit case for grant of bail to the applicant.
6. Accordingly, the present bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that in case if the applicant furnishes personal bond for a sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned trial Court, then he shall be released on bail. 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.

Sd/-

(P. Sam Koshy)
V. Judge