

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 4964 OF 2017

Suraj Gupta, S/o Shri Bhola Prasad Gupta, aged about 19 years, occupation-Student, R/o village Kapildevpur (Khobhi), PS & Post Chalgali, Tehsil and Distt. Balrampur (CG).

... Applicant

Versus

State of Chhattisgarh, through Incharge Officer Adivasi Kalyan Thana, PS Ambikapur, Distt. Surguja (CG).

... Respondent

For Applicant	:	Shri AK Prasad, Advocate.
For Respondent-State	:	Shri Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/11/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 15.06.2017 in connection with Crime No. 11 of 2017 registered at Police Station Adivasi Kalyan Thana, PS Ambikapur for the offence punishable under Sections 376 (2)(n), 294,313, 417 and 506 of IPC and Sections 3(1)(R), 3(1)(s), 3(1)(w-i) and 3(1)(w-ii) of the ST & SC (Prevention of Atrocities) Act.
2. As per prosecution case, the appellant is said to have on the pretext of marriage has maintained physical relationship with the prosecutrix and in the course of physical relationship the prosecutrix is said to have got pregnant twice and the applicant is said to have influenced the prosecutrix in getting the pregnancy terminated on both the occasions and ultimately the applicant is said to have refused to marry the prosecutrix which led to filing of a report.

3. Learned Counsel for the applicant submits that it is a case where the prosecutrix is more aged than the applicant and that even if the entire case of the prosecution is accepted, it is a clear case of consensual relationship which the prosecutrix had with the present applicant. He further submits that first physical relationship is alleged to have occurred in June, 2014 when the applicant was a minor and the prosecutrix on the said date was a major girl. Further, in the case diary, there is no evidence of any rape to have occurred with the prosecutrix nor is there any sign of termination of pregnancy to prove the allegation which the prosecutrix has made. It is a case where the present applicant has been falsely implicated in a criminal case only when he refused to marry or maintain relationship with the prosecutrix, and therefore he may be enlarged on bail.
4. Opposing the bail application, learned Counsel for the State submits that the statement of prosecutrix is very clear and categorical and there is no reason to disbelieve the statement of prosecutrix, and therefore the applicant may not be enlarged on bail.
5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking note of the age of the prosecutrix so also the age of the applicant, in addition taking into consideration the nature of allegation levelled coupled with the fact that there is no sign of termination of pregnancy or rape in the case diary and also the fact that the applicant is in detention since 15.06.2017, 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