

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5550 of 2017**

- Ramashray Niramalkar, S/o Kanchuram Nirmalkar, Aged About 38 Years, R/o Village Kumhi, Police Station Pandatarai, Tah. Pandariay, District Kabirdham (Wrongly Mentioned As District Bilaspur), Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Pandatarai, District Kabirdham, Chhattisgarh.

---- Non-applicant

For Applicant	: Shri Vimlesh Bajpai, Advocate.
For Respondent/State	: Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18.09.2017**

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No. 43/2017, on 24.06.2017, Police Station Pandatarai, Tehsil – Pandariya, District - Kabirdham, C.G., for the offence under Section 356, 342, 506, 376 of I.P.C. After investigation police had filed charge-sheet which is presently pending before Judicial Magistrate First Class, Pandariya as Criminal Case No. 311/2017 pending for committal.
3. Learned counsel for the applicant would submit that as per facts surfaced in the statement of the prosecutrix

recorded under Section 161 of the Cr.P.C. the applicant entered her room at about 10 P.M., and after committing the alleged rape, he stayed in the said room till 1 A.M. night and at about 1 A.M. when he attempted to flee away from her room the villagers caught him which shows it is a case of consent. Learned counsel would further submit that even in the statement of Suresh Chandravansi, the elder brother-in-law of the prosecutrix when he noticed some activity, for opening the room door of the prosecutrix he made a call to husband of the prosecutrix. When the call was un-responded thereafter he noticed that the room door of the prosecutrix was bolted inside. When his brother and his motor cycle was not traceable within the house premises he informed his brother, thereafter the applicant came out from the room of the prosecutrix and flee from the spot which goes to show the matter may be of consent hence applicant may be granted bail.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant.
5. Perused the entire material.
6. After perusal of the statement of the prosecutrix and Suresh Chandravanshi, husband of the prosecutrix recorded under Section 161 of Cr.P.C., prima-facie for the purpose of adjudication of bail it can not be held that it is a matter of consent. On the basis of the facts surfaced that the applicant gave threat to kill and also bolted the room from inside and

thereafter committed forceful committal, I am not inclined to grant bail to the applicant.

7. Consequently, the instant MCRC is hereby dismissed.

Sd/-

(Chandra Bhushan Bajpai)

Judge

Pawan