

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 634 of 2018**

Rajesh Chakradhari S/o Lalluram Chakradhari Aged About 23 Years R/o Pinkapar, Outpost Pinkapar, Police Station Devri, District Balod, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Of Police Station Devri, District Balod, Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Anil Gulati, Advocate
For State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/03/2018**

1. This is a repeat bail application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 23/2017 registered at Police Station Devri, District Balod, Chhattisgarh for the offence punishable under Sections 376, 506 r/w. 34 of Indian Penal Code and Sections 5(᳚)/6, 17 of Protection of Children from the Sexual Offences Act (As per charge sheet).
2. The earlier bail application stood rejected on merits on 24.08.2017.
3. The case of the prosecution against the present applicant is that the present applicant is said to have maintained a physical relationship with the prosecutrix for a considerable period of time and in between the prosecutrix is said to have got conceived through the applicant and she has also given birth to a child and subsequently the present applicant is said to have refused to accept the prosecutrix as his wife and as the father of the child, which led to the filing of the F.I.R.
4. The counsel for the applicant submits that the present applicant is in jail since 20.03.2017 and that pending the case before the trial Court, the

prosecution has got the DNA test conducted of the child and in the expert opinion it has revealed that the prosecutrix is the biological mother of the child whereas the applicant Rajesh Chakradhari was found to be not the biological father of the child. The said report dated 05.08.2017 is enclosed along with the present bail application. With this, the present applicant submits that since the paternity of the child itself has been disproved the allegation of rape also would become doubtful and therefore the present applicant deserves to be released on bail.

5. The State counsel however opposes the bail application on the ground that this Court had already on an earlier occasion rejected the bail application on merits.
6. Having heard the contentions put forth on either side and on perusal of record, particularly the report of the DNA examination, wherein it has been stated that the applicant is not the biological father of the child born to the prosecutrix. Under the facts and circumstances of the case, this Court is of the opinion that prima facie a strong case has been made out for grant of bail to the applicant. Accordingly, the present application for grant of bail is allowed.
7. 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