

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 632 of 2018**

Gour Singh Nishad S/o Chatur Nishad, Aged About 30 Years R/o Village Khadkhadi, Police Station Chilhati, Tehsil Ambagarh Chauki, District Rajnandgaon Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through The District Magistrate District Rajnandgaon Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Ankur Agrawal, Advocate on behalf of Mr. Shaleen Singh Baghel, Advocate
For State	:	Ms. M. Asha, Panel Lawyer

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

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 63/2017 registered at Police Station Chilhati, District Rajnandgaon, Chhattisgarh for the offence punishable under Sections 376 & 506 of Indian Penal Code and Sections 3(2)(V) & 3(1)(B) of Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. The present applicant is in jail since 03.11.2017 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the case of the prosecution is that the prosecutrix when she went to the shop of the present applicant for purchase of vegetable (potatoes), she was told that the vegetables are inside the storeroom and when she entered the storeroom, the present applicant is said to have over powered her and has committed sexual intercourse with her.

4. The counsel for the applicant submits that the bare perusal of the medical report by itself would show that the present applicant has been falsely implicated in as much as there is no sign of any injury on any part of the body. Further there also does not seem to be any resistance from the prosecutrix side or else there could have been some sort of injury available on the body of the prosecutrix. He further submits that the prosecutrix is a major lady and it appears that there was some sort of consensual relationship between the two.
5. The State counsel however opposing the bail application submits that the statement of the prosecutrix both under Sections 161 and 164 is consistent and there is no reason to disbelieve the same and therefore prayed for rejection of the bail application.
6. Having considered the submissions put forth on either side and on perusal of record, particularly taking note of the two statements of the prosecutrix where there is a consistent stand, this Court is of the opinion that it is not a fit case for grant of bail at this juncture, the same accordingly stands rejected.
7. The applicant would be at liberty to revive the same after the prosecutrix is examined.

Sd/-
(P. Sam Koshy)
Judge