

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 639 of 2018**

Basant Kumar Miri S/o Sushil Kumar Miri, aged about 32 years, R/o village Lacchanpur, O.P.Karhibazar, P.S.Baloda Bazar, District Baloda Bazar (C.G.).

---- Applicant**Versus**

State Of Chhattisgarh, Through Police Station O.P.Karhibazar, P.S.Baloda Bazar, District Baloda Bazar (C.G.).

---- Non-applicant

For Applicant	:	Shri Adil Minhaj, Advocate.
For State	:	Shri Lav Sharma, 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.496/2017 registered at Police Station O.P.Karhibazar, P.S.Baloda Bazar, District Baloda Bazar (C.G.) for the offence punishable under Sections 376, 451 & 342 of IPC.
2. The present applicant is in jail since 08.11.2017 in connection with the aforesaid Crime number.
3. The case against the present applicant as per prosecution is that, the present applicant on 08/11/2017 is said to have entered into the house of the prosecutrix and locking the door from inside has forcefully committed sexual intercourse with the prosecutrix.
4. The counsel for the applicant submits that, it is a case where the prosecutrix is a grown up girl, aged around 20 years and the present applicant is said to have entered into the house with her consent and there was a consensual relationship between the two. That it is only

when the father of the prosecutrix had accidentally reached the spot that leads to the filing of the complaint. He further submits that, it is a case where there was no sign of any resistance on part of the prosecutrix. She had not raised any alarm nor had tried to protect herself, neither did the father of the prosecutrix heard any cry when he had reached the door of his house and thus prayed for releasing the applicant on bail.

5. The State counsel however opposing the bail application submits that, it is a case where the present applicant is said to have forcefully dragged the prosecutrix from the Veranda to the house and their he is said to have ravished her after threatening her of her life. He further submits that the present applicant also was seen by the father of the prosecutrix when he entered into the house and the present applicant ran away from the rear portion of the house and thus the role of the present applicant stands established and the physical assault also stands established from the MLC conducted.
6. Given the aforesaid facts and circumstances of the case this Court is of the opinion that it is not a fit case for grant of bail made out at this juncture.
7. The present MCRC thus fails and deserves to be and is accordingly rejected with liberty to the applicant to revive the same after the prosecutrix is examine before the trial Court.

Sd/-

**(P. Sam Koshy)
Judge**