

HIGH COURT OF CHHATTISGARH AT BILASPURM.Cr.C. No.941 of 2018

Gourav @ Deepak Patel S/o Purushottam Patel, aged about 35 years,
R/o Ashoka Ratna, Block-A, House No.401, Police Station Mowa,
Raipur, District Raipur (C.G.).

---Applicant

Versus

State of Chhattisgarh, Through - The S.H.O. Police Station Telibandha,
Raipur, District Raipur (C.G.).

---Respondent

For applicant	:	Shri Manish Sharma, Advocate.
For objector/victim	:	Shri Pushkar Sinha, Advocate.
For State	:	Shri Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/04/2018

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.27/2018 registered at Police Station Telibandha, Raipur (C.G.) for the offence punishable under Section 376 of IPC.
2. Present applicant is in jail since 15/01/2018.
3. The allegation against the present applicant as per the prosecution case is that, the present applicant is said to have called the prosecutrix to the Hotel Courtyard Mariets, Raipur where they had a party on 13/01/2018 and after party it is said that the present applicant had forced the complainant to stay in the room of the hotel. It is further submitted that when the prosecutrix

went into the room, she consumed some water and thereafter she lost her consciousness. That when she woke up, she found her clothes changed and she was feeling drowsy and also feeling pain all over her body. Immediately, the prosecutrix found the present applicant playing with mobile phone of the prosecutrix and when she asked the present applicant as to what he was doing in her mobile phone, the present applicant left the room. Immediately an F.I.R. was lodged by the prosecutrix and the present applicant was arrested on 15/01/2018.

4. The counsel for the applicant submits that in 164 statement of the prosecutrix which was recorded on 16/01/2018 i.e. on the very next day of the filing of the F.I.R., there is no allegation of any physical assault being made by the present applicant with the prosecutrix.

5. This aspect is not disputed by the State counsel on going through the statement under Section 164 of Cr.P.C.

6. The only objection which the State counsel as well as the counsel for the objector raised is that, when the prosecutrix woke up, she felt pain in her body including at her back and therefore it is to be presumed that there was some physical assault made by the present applicant.

7. Taking into consideration the submissions put forth by either side so also considering the contents of the statement under Section 164 of Cr.P.C. this Court is of the opinion that, prima-facie a strong case has been made out for grant of bail to the present applicant.

8. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit