

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MISC. CRIMINAL CASE NO. 1590 OF 2018**

Shivnandan S/o Chhotelal Aged About 27 Years By Caste Panika, R/o Ward No. 15, B. Sim, Khongapani, Thana Jhagrakhand, Chowki Khongapani, District- Koriya, Chhattisgarh.

**... Applicant**

**Versus**

State of Chhattisgarh Through- Police Station Jhagrakhand, Police Chowki, Khongapani, District- Koriya, Chhattisgarh.

**... Respondent**

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| For Applicant        | : | Shri Parag Kotecha, Advocate.  |
| For Respondent-State | : | Ms. Sunita Jain, Panel Lawyer. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**16/04/2018**

1. This is first bail application seeking grant of bail to the Applicant who is in jail since 16.12.2017 in connection with Crime No. 219 of 2017 registered at Police Station Jhagrakhand, Distt. Koriya (CG) for the offence punishable under Sections 326,376,201 and 342 IPC.
2. The allegation against the applicant as per prosecution is that, the present applicant is said to have entered into the house of the prosecutrix and is said to have tied her hands and feet and committed rape. Subsequently, the applicant is said to have forced her to consume some black poisonous substance. Later on she had to be hospitalized and a report was also lodged in this regard to the police station on 15.12.2017 on the basis of which the applicant was arrested.
3. Learned Counsel for the applicant submits that the entire case of the prosecution is baseless and without sufficient material. The prosecutrix had been examined by the doctors and the doctors could not find any medical evidence of rape to have been committed. So far

as consumption of poisonous substance is concerned, according to applicant, there is no material available on record to substantiate this contention. He further tried to emphasis the fact that there is a great element of consent which reflects from the conduct of the prosecutrix and thus prayed for grant of bail.

4. The State counsel opposing the bail application submits that prima facie reading of statement of prosecutrix in the FIR as well as in her statement under Sections 161 and 164 CrPC reveals the fact that the applicant had forcefully without any invitation entered into the house of the prosecutrix and thereafter he is said to have tied her hands and feet and committed rape with the prosecutrix. Since the prosecutrix was hospitalized on account of she being forced to consume poisonous substance at the instance of the applicant, her dying declaration was also recorded, which all the more substantiates the case of the prosecution.
5. Given the aforesaid facts and circumstances of the case and looking to the gravity of the offence, this court is not inclined to grant bail to the applicant.
6. Accordingly, the bail application stands rejected.

**Sd/-**  
**(P. Sam Koshy)**  
**Judge**