

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 1938 OF 2018

Somesh Thakur S/o Sukhlal Singh Thakur, aged about 22 years, R/o village Chandragiri, PS Darbha, District Bastar (CG).

... Applicant

Versus

State of Chhattisgarh, through the Station House Officer, PS Burgum, District Bastar, Jagdalrpu (CG).

... Respondent

For Applicant	:	Shri PK Tulsyan, Advocate.
For Respondent-State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/05/2018

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 21.02.2018 in connection with Crime No.10 of 2017 registered at Police Station Burgum, Distt. Bastar, for the offence punishable under Section 376 IPC.
2. The allegation against the applicant is that, the applicant on the pretext of marriage is said to have had physical relationship with the prosecutrix and in the course she got conceived and also suffered miscarriage. Thereafter, the applicant is said to have refused to marry the prosecutrix.
3. Learned Counsel for the applicant submits that it is a case where the applicant is still interested to marry the prosecutrix but because of family compulsion he could not marry. He still undertakes to marry the prosecutrix the moment he is released on bail, irrespective whether the family members accept or not. He further submits that the prosecutrix is also a major girl and they had consensual physical

relationship and thus the offence of rape is not made out, and therefore he may be released on bail.

4. The State counsel opposing the application submits that it is a case where the applicant on the pretext of marriage is said to have exploited the prosecutrix for a very long time and had physical relationship with her and as a result of said relationship, the prosecutrix got conceived and later suffered miscarriage, yet the applicant was not in mood to marry the prosecutrix and fled from the village. Thus, prayed for rejection of the bail application.
5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking in to consideration the fact that the prosecutrix herself had stated in her statement that the applicant had resided with her for about one week and thereafter he is said to have gone and also considering the age of the prosecutrix as well as present applicant, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge