

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 3465 of 2018**

Jaiprakash Choudhary S/o Jamuna Prasad Choudhary Aged About 24 Years Caste Choudhary, R/o Ward No. 01, Village Champa, Post Pongri, P. S. And Tahsil Sohagpur, District Shahdole, Madhya Pradesh

---- Applicant**Versus**

State Of Chhattisgarh, Through The Police Of Police Station Gourela, District Bilaspur, Chhattisgarh

---- Non-Applicant

For Applicant	:	Mr. Yogendra Chaturvedi, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/06/2018**

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. 52/2018 registered at Police Station Gourela, District Bilaspur, Chhattisgarh for the offence punishable under Section 376 of the Indian Penal Code.
2. The present applicant is in jail since 10.03.2018 in connection with the aforesaid Crime number.
3. The case of the prosecution against the present applicant is that the present applicant after providing the prosecutrix with some intoxicative substance, on account of which she lost consciousness and in the process the present applicant is said to have ravished her. Thereafter, the present applicant is further said to have promised the prosecutrix of marrying her, but later he refused to marry her, which led to the filing of the F.I.R.

4. The counsel for the applicant submits that the present applicant has falsely been implicated. He submits that it is a case where the present applicant and the prosecutrix were having an affair since long and both of them had decided to marry and subsequently because of family compulsions and the fact that the applicant and the prosecutrix were closely related to each other, the marriage could not materialize and therefore the F.I.R. was lodged and present applicant has been arrested from the said complaint.
5. The State counsel on the contrary opposing the bail application submits that it is a case where initial physical relationship between the two was after the present applicant is said to have made the prosecutrix eat something intoxicating and she lost consciousness, thereafter it is said that the present applicant is said to have threatened the prosecutrix of having made a video recording of obscene pictures and he threatened her of publishing the same in the social media because of which, the complainant did not lodge any complaint earlier. This conduct of the applicant itself shows the gravity of the offence and the fact that he had ravished the prosecutrix without her consent rather had the physical relationship without her knowledge after making the prosecutrix eat something intoxicating and therefore prayed for rejection of the bail application.
6. Having heard the contentions put forth on either side and on perusal of record, what reflects from the materials available in the case diary is that the date of incident is 28.11.2016 and the F.I.R. in the instant case has been lodged on 09.03.2018, there does not appear to be any complaint so far as the rape is concerned during the intervening

period made by the complainant against the present applicant. Moreover except for some negotiation between the family and the mutual agreement entered between the parties so far as marriage is concerned, the element of rape or allegation of physical assault is not reflected from any of the documents available in the case diary. Given the facts, this Court is of the opinion that prima facie a strong case has been made out for grant of bail to the applicant. Accordingly, the present application for grant of bail is allowed.

7. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved