

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 4203 of 2018**

Kishan Diwakar S/o Shri Mohar Lal Diwakar Aged About 22 Years
R/o- Village- Rogda (Rogdi) P.S. Saragaon, District- Janjgir-Champa,
Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through- S.H.O. P.S. Saragaon, District-
Janjgir-Champa, Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Ravindra Sharma, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/07/2018**

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. 36/2018 registered at Police Station Saragaon, District Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 363, 376/34 of Indian Penal Code and Section 4 of Protection of Children from the Sexual Offences Act.
2. The present applicant is in jail since 07.03.2018 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the case of prosecution is that the present applicant in connivance with the co-accused persons is said to have abducted the prosecutrix, a minor girl and is took her to an isolated place, where one of the accused is said to have committed the offence of rape with the prosecutrix.

4. The counsel for the applicant submits that if the entire version of the prosecution is accepted, it is very difficult to establish as to who among the two accused has committed rape. He further submits that even the test identification also was not conducted in a manner by which it could be established that who was the person, who had committed rape. He further submits that even otherwise from the perusal of the statement of the prosecutrix, it appears that it was a case of consent and only because some of the villagers happened to witness, the prosecutrix having a physical relationship with the accused, she has turned hostile and has filed a complaint against the accused persons and therefore the present applicant deserves grant of bail.
5. The State counsel however opposes the bail application and submits that the prosecutrix as on date is said to have clearly made averments against the present applicant and therefore considering the statement of the prosecutrix, the present applicant does not deserve bail.
6. Considering the facts and circumstances of the case, particularly the statement of the prosecutrix and also the fact that there appears to be an element of doubt on the identification of the accused person, as to who has committed the rape among the two persons, who have been made accused, 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