

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 4325 of 2018

Heeralal Baghel, S/o Harchand @ Harichand Baghel, Aged About 21 Years, R/o- Gandhi Ward Adakachhepada, P.S. And District- Kondagaon, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through The Police Station Kondagaon, District Kondagaon, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri Pravin Kumar Tulsyan, Advocate.
For Non-Applicant/State : Shri V. B. Singh, P. L.

Hon'ble Shri Justice Sanjay Agrawal

Order On Board

04.09.2018

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Heeralal Baghel, has been arrested on 19.02.2018 in connection with Crime No. 49/2018, registered in Police Station Kondagaon, District Kondagaon (C.G.) for the offence punishable under Section 294, 323, 506 & 376 of the Indian Penal Code, 1860 (for short 'IPC, 1860').
2. The case of the prosecution is that, a written complaint has been lodged by the prosecutrix on 17.02.2018 by alleging, inter alia,

that the applicant Heeralal Baghel, the resident of Adakachhepda, Gandhi Ward on the pretext of providing a job and also to marry with her has committed sexual intercourse from March 2017 to December 2017 forcefully while taking her in his house at the said village. Further prosecution story is that when she requested for marriage and job, the applicant started misbehaving by using filthy words and threatened not only to kill her but also to her family members. Based upon the alleged complaint, the FIR was registered on the same day in relation to the offence as mentioned aforesaid.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits further that the prosecutrix is a major girl of 23 years and only with her consent, the applicant has made the alleged physical relationship with her. Therefore, it cannot be said that the alleged allegation as made in the said written complaint is true. He submits further that since the applicant is in jail since 19.02.2018, therefore, he may be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application and submits that a mere perusal of the complaint as made by the complainant on 17.02.2018, the applicant is not entitled to be enlarged on bail. He submits further that immediately after the lodging of the alleged written complaint, the prosecutrix was examined before the Judicial Magistrate First Class (JMFC) on 23.02.2018 under Section 164 of the Code of Criminal Procedure, 1973, wherein she has reiterated the same fact except in relation to providing the job. The applicant is,

therefore, not entitled to be enlarged on bail.

5. I have heard learned counsel for the parties and perused the entire case diary carefully.
6. Having considered the facts and circumstances of the case and that by considering the allegations as made by the prosecutrix in her written complaint made on 17.02.2018 and that by considering further of her statement made on 23.02.2018 under Section 164 of the Code of Criminal Procedure, 1973 before the concerned Magistrate, I am not inclined to release the applicant on bail. The application is accordingly rejected.

Sd/-

(Sanjay Agrawal)
Judge

Deepti Jha