

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 4692 of 2018**

Surendra Jhadi S/o Damodar Jhadi Aged About 25 Years R/o- High School Para Bhopalpattnam, District- Bijapur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Station House Officer Police Station- Bijaur, District- Bijapur, Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Goutam Khetrapal, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/08/2018**

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. 69/2016 registered at Police Station Bijaur, District- Bijapur, Chhattisgarh for the offence punishable under Section 376(2)(n) of Indian Penal Code.
2. The present applicant is in jail since 17.07.2017 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the case of the prosecution is that the present applicant on the pretext of marriage is said to have had physical relationship with the prosecutrix for a considerable period of time and subsequently is said to have ditched her and refused to marry her.
4. The counsel for the applicant submits that the prosecutrix in the instant case is aged about 23 years and at the time of having the first physical relationship, even then she was more than 20 years of age. From the statement under Section 164 itself it would reveal that she was a

consenting party to the relationship, which they had. The counsel for the applicant further submits that from the evidence of the prosecutrix itself, it would reveal that they were having a love affair since college days and that she used to voluntarily without any compulsion or force on the part of the applicant visit the house of the present applicant and where they had physical relationship. It was also contended by the counsel for the applicant that at no point of time has there being any resistance shown by the prosecutrix from having the physical relationship.

5. The State counsel however opposes the bail application on the ground that the present applicant is said to have exploited the prosecutrix on the pretext of marriage.
6. Having heard the contentions put forth on either side and also taking into consideration the statement of the prosecutrix under Section 164, where she has admitted the fact that she was having an affair with the present applicant and she had voluntarily visited the house of the present applicant on many occasions, where they had physical relationship. Considering all these facts, this Court is of the opinion that prima facie a fit 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