

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 7530 of 2018**

Raju Yadav S/o Pahanwal Yadav, Aged About 39 Years, R/o Podibahar, Near Old Labour Court, Korba, District - Korba, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station - Kotwali, Korba, District - Korba, Chhattisgarh

---- Respondent

For Applicant	:	Shri Anil Tripathi Advocate
For Respondent/State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/11/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 03.06.2018 in connection with Crime No. 52/2018 registered at Police Station - Kotwali, Korba, District Korba (CG) for the offence punishable under Sections 376, 506 & 323 of IPC.

2. The allegation against the present applicant is that the applicant on the pretext of marriage is said to have had physical relationship with the prosecutrix for a considerable period of time and thereafter ditched her and refused to accept her as his wife which led to the filing of the FIR.

3. The contention of the counsel for the applicant is that the statement of the prosecutrix right from the beginning i.e. from her statement under Section 161 CrPC as also from her Court statement it would reveal that whatever

relationship that was there between the applicant and the prosecutrix it was a consensual relationship and that there was never any sort of coercion or force used by the applicant. Thus, prayed for grant of bail to the applicant.

4. State counsel, however, opposing the bail application submits that since the physical relationship that the applicant had with the prosecutrix was on the pretext of marriage and the applicant refused to perform the marriage and to accept the prosecutrix as his wife, the same would thus amount to rape and therefore the applicant is not entitled for grant of bail.

5. Given the facts and circumstances of the case, particularly taking note of the statement of the prosecutrix both under Section 161 CrPC and also the statement before the Court it reveals that the prosecutrix had voluntarily stayed with the applicant and also without any sort of compulsion, coercion or force had agreed to have physical relationship, therefore prima facie it appears to be a case of consensual relationship between the two. The record also shows that the prosecutrix is a major lady aged more than 35 years.

6. Given the facts, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

7. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will 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 trial Court for his appearance before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**