

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1173 of 2017

Shamshad Husain S/o Mr. Bafat Husain, Aged About 42 Years R/o Village
Gopi Mehka, Tehsil Kharsiya, District Raigarh Chhattisgarh, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Ganj District Raipur
Chhattisgarh, Chhattisgarh

---- Respondent

Shri Amit Kumar, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/05/2018

Heard.

The applicant is apprehending his arrest in connection with Crime No.424/2017 registered at Police Station – Ganj, District – Raipur (CG) for alleged commission of offences under Section 376, 506 of IPC.

2. Case of the prosecution is that the applicant committed rape on the prosecutrix.

3. Learned counsel for the applicant would submit that the prosecutrix, for vested reasons has falsely implicated the applicant. He would submit that story of the prosecutrix itself shows that she had herself come to the applicant at Raipur and stayed in the hotel along with the applicant whereas her place of original residence is Kharsiya and parental house is in Chandrapuri, Durg. It is further submitted that FIR has been lodged after two months of the alleged incident which itself shows false implication. He would further submit that the husband of the prosecutrix has sent letters to the police authorities including I.G., S.P. and SHO of the concerned police station that in the matter of dispute relating to return of money, which the husband of the prosecutrix was owing towards the applicant, the applicant has been falsely implicated.

4. On the other hand, learned State counsel opposes bail application and submits that at present, investigation is going on and the statement of the prosecutrix shows that though she was staying in a hotel where the applicant was also staying, she was raped by the applicant taking undue advantage of the situation.

5. According to the statement under Section 164 CrPC of the prosecutrix, her husband left her in her parental house at Chandrapuri on 13/09/2017. But soon thereafter, on the very next day, she left Chandrapuri to go back to her matrimonial house at Kharsiya but on the way, she stepped down at Raipur where she is alleged to have searched for the present applicant at Raipur itself. According to her, she had gone to the same hotel where the applicant was staying and then there is an allegation of she having been raped. During investigation, the statement of Hotel Manager - Sushant Tandi and Sameer Manjhi have been recorded. Sameer Manjhi has stated that the present applicant and the prosecutrix came to the hotel on 14/09/2017 in the afternoon and they demanded one room for occupation and when relation was asked, the present applicant and the prosecutrix declared that they are brother and sister. When their ID cards were seen, showing different surnames, the hotel Manager refused to provide single room but only offered two rooms and which was given. The other person Sushant Tandi of the same hotel has stated that on 15/09/2017, the applicant -Shamshad Hussain checked out from room no.413 and said that payment of room no.104 would be made after occupant checks out. Thereafter, the applicant left the hotel in the evening and he came back and then the prosecutrix checked out from her room along with the applicant and cash payment was made in the hotel.

6. Taking into consideration the aforesaid material so far collected by the investigating agency, the applicant's contention that he has been falsely implicated by the prosecutrix, cannot be ruled out and therefore, the applicant is entitled to appropriate protection against arrest.

7. Accordingly, this application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions -

(i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;

(ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from

disclosing such facts to the Court or to any Police Officer.

(iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicant shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge