

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8033 of 2018**

Kanhaiya @ Rajesh Kumhar, S/o Dayaram Kumhar, Aged About 30 Years, R/o Village- Katora, Police Station- Patna, Tahsil Baikunthpur, District Korea, Chhattisgarh. ---- **Applicant**

Versus

State of Chhattisgarh, Through The Station House Officer, Police Station Patna, District Korea, Chhattisgarh. ---- **Non-Appllcant**

For Applicant : Shri Ishwar Jaiswal, Advocate.

For Non-Appllcant/State : Shri Adil Minhaj, G. A.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****31.10.2018**

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to Cr.P.C.), for regular grant of bail, as the applicant has been arrested on 15.07.2018 in connection with Crime No. 151/2018, registered in Police Station Patna, District Korea (C.G.) for the offence punishable under Section 294, 506 & 326 of Indian Penal Code, 1860 (for short 'IPC').
2. The case of the prosecution is that on 15.07.2018 at about 3:00 pm, the complainant/wife of the applicant was at home and was waiting for her husband. After some time, the applicant came and his wife served food and said that no more food is now at home.

Upon hearing so, the applicant got annoyed and started abusing his wife by using filthy words and also started assaulting her by biting her lips, as a result of which, she got injured badly and thereafter she lodged the report against her husband. Based upon it, the aforesaid offence has been registered against the applicant and that after completing the investigation, the concerned Investigating Officer has submitted his charge sheet on 30.08.2018.

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 alleged incident, in fact, took place all of a sudden and there was no intention to assault the wife as such. He submits further that even the wife has raised no objection by filing an affidavit before the concerned trial Court for his release. According to Shri Jaiswal, initially FIR was registered under Sections 294, 506 & 324 IPC, however, at the time of filing the charge sheet, an offence punishable under Section 324 IPC has been substituted by Section 326 IPC. He submits further that the applicant is in jail since 15.07.2018 and the trial may take some time, therefore, he may be enlarged on bail.
4. On the other hand, learned State counsel opposes the bail application and submits that on the date of incident the applicant has assaulted his wife badly, as a result of which, her lips were cut. Shri Minhaj, counsel for the Respondent submits further that based upon the medical report, the alleged offence, punishable under Section 326 IPC has been registered in place of Section

324 IPC while filing the charge sheet, along with others as mentioned therein. According to him, the offence is serious in nature, therefore, the application as framed deserves to be rejected.

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, considering the affidavit as submitted by applicant's wife praying for his release and that by considering further that the charge sheet has already been filed and the applicant is in custody since 15.07.2018, without commenting on merit of the case at this stage, I am inclined to enlarge the applicant on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one surety in the like sum to the satisfaction of the concerned trial Court. He is directed to appear before the concerned trial Court on each and every date as and when directed by the concerned trial Court.

Sd/-
(Sanjay Agrawal)
Judge