

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4210 of 2020**

- Lagandhari Yadav S/o Ramdin Yadav Aged About 36 Years Caste- Ahir, R/o Village- Hariharpur, Police Station- Chandaura, Tahsil- Pratappur, District- Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station- Chandaura, District- Surajpur, Chhattisgarh

---- Respondent

For Applicant/s	:	Mr. D.N. Prajapati, Advocate.
For State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****31/08/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.26/2020 registered at Police Station-Chandaura, District- Surajpur, C.G. for the alleged commission of offence under Section 376 of IPC.
2. Prosecution case is that the applicant committed rape on the prosecutrix on 28.01.2020 when she was all alone.
3. Learned counsel for the applicant would argue that on the face of the statement of the prosecutrix and that of her husband recorded under Section 164 Cr.P.C. in addition to what has been already stated in the FIR, it is clear case of consensual sexual intercourse and as the prosecutrix and applicant were caught red handed by prosecutrix own husband, after a long delay of 2 and half months, report has been lodged by the prosecutrix only as face saving device to convince her husband to take her back to matrimonial house. He would submit that as per the prosecutrix and her husband both, 4 days after the incident, prosecutrix was deserted by her husband which clearly shows that she was caught red handed with the applicant.

4. On the other hand, learned State Counsel submits that prosecutrix has clearly stated in the FIR and diary statement and also under section 164 Cr.P.C. statement that the sexual intercourse was committed by the applicant without her consent and against her wishes which fact was disclosed to her husband when her husband came back.
5. On *prima facie* consideration, from the FIR, statement of the prosecutrix and her husband, read as it is, it is revealed that the prosecutrix and applicant were found in backyard of the house on 28.01.2020 by the husband of the prosecutrix when he returned home. Further, prosecutrix herself stated that husband deserted his wife after 4 days. Report was lodged after two and half months. Prosecutrix is a major. Therefore, considering the totality of the circumstances when investigation is complete, charge sheet has been filed and that the applicant is in jail since 26.05.2020, present is a fit case for grant of bail.
6. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety of the like amount to the satisfaction of the Trial Court on the condition that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge