

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 998 of 2020**

- Shikander Khan S/o Shri Abdul Sharif Khan, Aged About 40 Years R/o Bhanupratap Colony, Madhubhan Para, Raigarh, Tehsil And District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Arakshi Kendra, Tikrapara, District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Rajat Agrawal, Advocate
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/11/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.147/2019 registered at Police Station – Arakshi Kendra, Tikrapara, District – Raipur CG) for alleged commission of offences under Section 376, 506 IPC.
2. Prosecution case is that the prosecutrix lodged an FIR on 12/04/2020 in the police station alleging that the applicant committed rape on her on 15/02/2020 and threatened her that if she disclose this to anybody, she would be killed.
3. Learned counsel for the applicant would submit that a false report is got lodged in the police station though the prosecutrix is not willing to press any such allegation. The prosecutrix and the applicant were working at Raigarh and the allegation of commission of rape on the prosecutrix by the applicant on 15/02/2020 at Raipur is highly improbable and falsehood because no report was lodged by the prosecutrix. He submits that after about two months of the alleged incident, a report has been registered in the police station on 12/04/2020 in the name of the prosecutrix but when the prosecutrix was produced before the Magistrate for examination under Section 164

CrPC, the prosecutrix has stated that nothing happened to her and the applicant has not committed any offence on her. Therefore, it is argued that present is a case of false implication.

4. On the other hand, learned State counsel opposes bail application and submits that as per FIR which has been lodged by the prosecutrix, the applicant committed rape on her on 15/02/2020. He submits that in view of what has been stated in the FIR and case diary statement, a *prima facie* case is made out and whether or not the statement of the prosecutrix is to be believed on the ground that there was two months delay in lodging FIR, would be a matter of trial.

5. The prosecutrix is a major and married lady. The FIR has been lodged on 12/04/2020 alleging commission of offence of rape as back as on 15/02/2020. Moreover, on *prima facie* consideration, it is found that though the FIR has been registered in the name of the prosecutrix and the case diary statement also records alleged commission of rape, when the prosecutrix was produced before the Magistrate for recording statement under Section 164 CrPC, the prosecutrix has not supported the prosecution case and has stated that no offence was committed and she did not involve the applicant in any manner. Upon being inquired, learned State counsel could not disclose any material from the case diary that after recording statement under Section 164 CrPC before the Magistrate on 17/04/2020, any complaint has been lodged by the prosecutrix for the last six months that she was compelled by any threat to give clean chit to the applicant while giving her statement under Section 164 CrPC before the Magistrate.

Therefore, there is considerable force in the submission of learned counsel for the applicant that present is a case of false implication and it cannot be ruled out. Therefore, present is a fit case for grant of bail.

6. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with two local sureties for the like sum 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

Deepti