

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 1440 of 2021**

Suraj Soni S/o Lakhanlal Soni Aged About 36 Years R/o Danitola, Jaivik Khad Road, Dhamtari Police Station City Kotwali Dhamtari, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

---- **Petitioner**

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station City Kotwali, Dhamtari, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

---- **Respondent**

For applicants	:	Mr. Shivendu Pandya, Advocate.
For resp./State	:	Mr. B. P. Banjare, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

19/05/2021

1. The present applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No. 23/2021 registered at Police Station City Kotwali, District Dhamtari (C.G.) for the offence punishable under Sections 376, 506 & 323 of IPC.
2. The present applicant is in jail since 15.01.2021.
3. As per the prosecution case the present applicant is said to have forcefully committed intercourse with the prosecutrix on 08.01.2021.
4. Today when the matter is taken up, learned counsel for the applicant refers to an FIR put in on 10.01.2021 (A-3) lodged by the prosecutrix against her husband namely Goverdhan Dhimar. In the said FIR, the prosecutrix has specifically mentioned that on 08.01.2021 the prosecutrix had voluntarily gone to stay with the present applicant at his house and at point of time the husband of the prosecutrix came and had a fight with the prosecutrix in the house of the present applicant. Subsequently after four days on 14.01.2021, the prosecutrix had filed an FIR implicating the present applicant for the offences registered against him.

5. According to the counsel for the applicant the prosecutrix and the present applicant were having a cordial relationship for long as would be evident from the various photographs that have been enclosed along with the bail application. Moreover, according to the applicant the present FIR has been lodged to implicate the present applicant, only after the prosecutrix had gone along with her husband on 10.01.2021.

6. State counsel on the other hand referring to the case of the prosecutrix submits that there is an allegation made against the applicant having forcefully committed intercourse with the prosecutrix on 08.01.2021 and therefore the present applicant may not be released on bail at this juncture.

7. Having heard the contentions put forth on either side and perusal of record, particularly taking note of the contents of the FIR lodged by the prosecutrix against her husband Goverdhan Dhimar on 10.01.2021 in crime no. 0015/2021 at police Station Dhamtari, wherein prosecutrix has clearly stipulated that she has been staying with the present applicant voluntarily, when the husband had found them together at the house of the present applicant on 10.01.2021. This content of the FIR goes to prima facie prove the fact that prosecutrix had been voluntarily staying with the present applicant and they were having cordial relationship for quite some time. For the aforesaid reasons, prima facie a strong case for grant of bail has been made out.

8. Accordingly, the application for grant of bail is allowed. It is ordered that the applicants shall be released on bail on their executing a personal bond for a sum of Rs.50,000/- with two sureties in the like sum to the satisfaction of the concerned Trial Court. The applicants shall thereafter appear before the Trial Court on each and every date given by the said court.

Sd/-

(P. Sam Koshy)
VACATION JUDGE

Rohit