

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4003 of 2015**

1. Tiranga S/o Netram Satnami Aged About 22 Years,
2. Rajkumar S/o Dhanaram Satnami Aged About 35 Years
3. Purushottam S/o Netram Satnami Aged About 28 Years
4. Manoj S/o Rohit Kumar Satnami Aged About 24 Years
5. Gondil S/o Kailash Satnami Aged About 25 Years

All residents of Village - Khamhariya, Police Chowki - Lawan,
P.S. - Kasdol, Civil & Revenue Distt. Balodabazar-Bhatapara
(Chhattisgarh).

---- Applicants

Versus

State Of Chhattisgarh Through : Police Chowki, Lawan, Police
Station - Kasdol, Distt. Balodabazar-Bhathapara (Chhattisgarh).

---- Non-applicant

For Applicants:	Shri A.S. Rajput, Advocate
For Respondent/State:	Shri S.R.J. Jaiswal, PL

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/08/2015**

Heard

- (1) Counsel for the applicants submits that he may be permitted to withdraw this bail application in relation to applicant No.1 – Tiranga.
- (2) Accordingly, the bail application in relation to applicant No. 1-Tiranga is dismissed as withdrawn.
- (3) Heard on bail application in relation to applicants No. 2 to 5 namely Rajkumar, Purushottam, Manoj & Gondil.

(4) This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants No. 2 to 4, who have been arrested in connection with crime No.78/2015 registered at Police Station – Police Chowki-Lawan, P.S. Kasdol, Distt. Balodabazar, Bhatapara (C.G.) for the offences punishable under Sections 363,366,376 & 120-B of the Indian Penal Code and Section 3 & 4 of the POCSO Act, 2012.

(5) Case of the prosecution is that accused Tiranga committed sexual intercourse with the prosecutrix against her will and at that time other other accused persons caught hold of her and thereby committed the aforesaid offences.

(6) Counsel for the applicants No. 2 to 4 submits that applicants No. 2 to 4 have not committed any offence; prosecutrix, in her statement recorded under Section 161 Cr.P.C. On 11.02.2015, has not stated anything about the applicants and, thus, they have been enlarged on bail by order dated 13.02.2015 by the Court of Session, thereafter, while recording statement of the prosecutrix under Section 164 Cr.P.C. again on 24.02.2015, she has improved her version by saying that applicant No. 1 has committed rape upon her and at that time other applicants are caught hold of her and in consequence thereof, applicants have been arrested on 25.07.2015 and since then they are in custody and, therefore, the applicants No. 2 to 4 may be released on bail.

(7) On the other hand, counsel for the State submits that applicant No.1 has committed rape upon the prosecutrix and at that time applicants No. 2 to 5 caught hold of her.

(8) Taking into consideration the facts & circumstances of the case; further considering the role of applicants No. 2 to 5 in the offence in question; and the statement of the prosecutrix recorded under Sections 161 & 164 Cr.P.C.; and the applicants No. 2 to 5 are in jail since 25.07.2015; this court is of the view that it is a fit case to release the applicants No. 2 to 5 on bail. Accordingly, the bail application is allowed.

(9) Accused/applicants No. 2 to 5 namely **Rajkumar, Purushottam, Manoj & Gondil** are directed to be released on bail on each of them executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. They are directed to appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-