

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4083 of 2015**

1. Rakesh Pandey, son of Jhumuk Lal Pandey, aged about 49 years, resident of Village-Champa, Police Station -Champa, District Janjgir-Champa (C.G.)
2. Ram Avtar Sahu, son of Deenbandhu Sahu, aged about 50 years, resident of Village-Chilphi, Police Station – Lormi, District Mungeli (C.G.)

---- Applicants**Versus**

1. State of Chhattisgarh, Through : Station House Officer, Police Station – Pandariya, District Kabirdham (C.G.)
2. Smt. Vinita Pandey, wife of Rakesh Pandey, aged about 42 years, resident of P.W.D. Colony, Pandaria, District Kabirdham (C.G.)

---- Non-applicant

For Applicants:	Mr. V.R. Tiwari, Advocate.
For Non-applicant No.1/State:	Mr. Anant Bajpai, Panel Lawyer.
For Complainant:	Ms. Sareena Khan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/09/2015**

Heard.

(1) The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Complaint Case No. 13/2015 registered at Police Station Pandaria, District - Kabirdham for the offence punishable under Section 307/34 of the Indian Penal Code.

(2) Case of the prosecution, in brief, is that non-applicant No.2/complainant and her children were administered drugs with intention to cause death due to enmity prevailing between the applicant No.1/husband & his wife complainant/non-applicant No. 2, pursuant to which, wife/complainant has filed criminal complaint under Section 307 read with Section 34 of the Indian Penal Code on 27.8.2012 before the jurisdictional criminal Court against the applicants.

(3) Counsel for the applicants submits that the filing of complaint is an act of false implication in the series of allegations and counter allegations and various cases pending between applicant No.1 and the complainant/wife. He would further submits that applicant No. 1 has filed criminal complaint before the Magistrate against the complainant/wife as the complainant/wife is having illicit relation with one G.P. Patel, in which offence under Section 497 IPC has been registered against G.P. Patel on 14.08.2012, thereafter, as a counter blast on 27.08.2012 a criminal complaint under Section 307/34 IPC has been filed by the complainant against the applicant and in that case applicant No. 2 – Ram Avtar Sahu is a witness in the said criminal case as he has seen the complainant in compromising position with G.P. Patel, therefore, he has also been falsely implicated in the offence in question. He would also submit that applicants are languishing in jail since 29.07.2015 and unless they are released on bail, they will not be able to

prosecute the criminal complaint filed by the complainant and the applicants are not likely to abscond, if they are released on regular bail and, therefore, they may be released on bail.

(4) On the other hand, counsel for the complainant would submit that a specific complaint has been made by the complainant against the applicant on 27.08.2012 that on 15.03.2012 applicant No.1 administered drugs upon the complainant and her children with intention to cause their death, and the applicants have filed anticipatory bail i.e. M.Cr.C. (A) No.252/15 in view of filing of complaint against them by the complainant and subsequent registration of offence under Section 307/34 of the Indian Penal Code in which, this Court on 12.05.2015 rejected their application for anticipatory bail and directed them to surrender before the trial Court and, therefore, they are not entitled to be released on bail.

(5) I have heard counsel for the parties and perused the material available on record with utmost circumspection.

(6) Taking into consideration the facts & circumstances of the case; further considering the pending litigation between the parties and the fact remains that first complaint was lodged by the applicant against G.P. Patel, in which, applicant No. 2 has appeared as witness and, thereafter, complaint by the complainant came to be lodged on 27.08.2012 for offence under Section 307 read with Section 34 of the Indian Penal Code; and considering their pre-trial detention and it is a criminal complaint

registered against the applicant; this court is of the view that it is a fit case to release the applicants on bail. Accordingly, the application is allowed.

(7) Accused/applicants – **Rakesh Pandey & Ram Avtar Sahu** 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/-