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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5958 of 2015

1. Mohammad Ajaj, S/o. Mohammad Israil Khan, aged about 24 years, R/o. Mohdapara, Gali No.2, Police Station-Mohdapara, Civil and Revenue District – Raipur (C.G.)
2. Mohammad Faiz, S/o. Late Tanveer Mohammad, aged about 30 years, R/o. M.G. Road, Dr. Birdi Gali, Raipur, Mohdapara, P.S. Mohdapara, Civil and Revenue District – Raipur (C.G.)

----Applicants

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station – Civil Line, District – Bilaspur (C.G.)

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/11/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.600/2015, registered at Police Station – Civil Line, District – Bilaspur (C.G.) for the offence punishable under Section 363, 365, 34 of Indian Penal Code.
2. Case of the prosecution, in brief, is that at the instance of one Pragati @ Khusbu, the victim went away from her home to Raipur, thereafter, when they reached Raipur, roam around at certain places and while they stayed at some place at Telebahdna, few of the boys started harassing, whereby they went out and on morning when they came, thereafter, they were made to stay in room and given coal drinks with

intoxication by the Khusbu and another and when she lost her conscious, four boys committed rape.

3. Learned counsel for the applicant would submit that only the case is under Section 363 and 365 and no rape or offence has been registered against the applicants. The applicants neither they accompanied the victim to go to Raipur from Bilaspur nor they were parted to it, therefore, they have been falsely implicated. Therefore, he prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application and read out the statement under Section 164 of the victim.
5. I have heard learned counsel appearing for the parties.
6. I have gone through the statement of the victim, who is stated to be aged about 15 years, wherein the applicants have been specifically named that they were party to the proceeding while victim went one place to another and at the instance of the applicant, the victim was made to stay at a hotel and thereafter, subsequently they went to the garden thereafter lastly in a guest house. In such guest house, they were intoxicated and sexual intercourse was committed by 4-5 boys. The matter is under investigation and still few of the accused are to be apprehended. Considering the role played by the applicants as has been stated in the statement under Section 164 and considering the nature and gravity of the offence and age of the victim, I am not inclined to allow this application at this stage.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge