

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7621 of 2015

1. Muneshwar Yadav S/o Rambaran Aged About 33 Years, Caste - Ahir, R/o Vill. Gaibuda, Thana & Tahsil Bagicha, Civil and Rev. Distt. Jashpur Chhattisgarh.
2. Shrinivas Yadav, S/o Rambaran, Aged About 50 Years Caste - Ahir, R/o Vill. Gaibuda, Thana & Tahsil Bagicha, Civil And Rev. Distt. Jashpur Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh Through P.S. Bagicha, Distt. Jashpur Chhattisgarh.

---- Respondent

For Applicant	:-	Ms. Sharmila Singhai, Advocate
For Respondent/ State	:-	Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board By

28/01/2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No. 170/2015 registered at Police Station- Bagicha, District – Jashpur (C.G.) for the offence punishable under Sections 376 (D) of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 25.08.2015 the applicant while was going to her village for grass, at that time the applicant No. 2 Shrinivas Yadav initially was caught hold the hands of the prosecutrix and forcefully committed sexual intercourse with her. After for some time, the applicant No. 1 Muneshwar Yadav came there and committed sexual intercourse with the prosecutrix. Thereby, the offence is committed.

3. Counsel for the applicant submits that the applicants have been falsely implicated in this case for the reason that earlier to this incident of 25.08.2015 as alleged on 16.07.2015 against the brother of the prosecutrix namely Ashok Yadav, a report of rape was made by the wife of the Applicant No. 1 Muneshwar Yadav and the investigation was carried out in the case and the charge-sheet subsequently was filed. She further submits that the alleged commission of rape was made against these applicants is forged and fabricated, Therefore, the applicants may be enlarged on bail.
4. Learned State counsel was earlier directed to verify the fact as to whether the earlier report was made on 16.07.2015 and the crime No. 146/2015 was lodged by the wife of the Applicant No. 1 Muneshwar Yadav against Ashok Yadav, the brother of the present prosecutrix. He do not dispute the relation, however, he submits that in crime No. 146/2015 according to his opinion, after analyzing the case under section 376 is not made out.
5. Perusal of the case diary and the statement shows that in earlier crime which was reported on 16.07.2015 case was registered as crime No. 146/2015 and a report was lodged against Ashok Yadav by Silvanteen Yadav who is wife of Muneshwar Yadav the applicant No. 1, herein. In the present case, report was made by Neeta Yadav which is registered in Crime No. 170/2015 who is sister of Ashok Yadav who is accused in crime No. 146/2015.
6. Perusal of the case diary would show that the allegation of rape was made against Ashok Yadav in the earlier crime by the wife of Muneshwar Yadav on 16.07.2015. The present crime has been registered to be committed on 25.08.2015. Taking the allegation and the case diary, this fact is not disputed that the charge-sheet

has been filed in the earlier crime under section 147, 376 and 450 of IPC.

7. Considering the proximity of the allegation, it appears that a counter case has been lodged in the name of Muneshwar Yadav, prima-facie, to be inculpated by Neeta Yadav to counter the earlier case. Considering the facts and circumstance of the case, I am inclined to release Muneshwar Yadav the applicant No. 1 on bail herein. However, in respect of the Applicant No. 2, this Court is not inclined to entertain the bail application of Applicant No. 2 at this stage, as apparently nothing has been substantiated to appreciate why his name would be wrongly inculpated.
8. Accordingly, the bail application of the applicant No. 1 Muneshwar Yadav is allowed and the bail application of the Applicant No. 2 Shrinivas Yadav is dismissed.
9. It is directed that the applicant No.1 Muneshwar Yadav shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Goutam Bhaduri)
Judge