

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 7469 of 2016

1. Pradeep Patel, S/o. Late Shri Harishankar Patel, Aged About 42 Years,
2. Netram Patel @ Munchu Patel, S/o. Shri Hriday Ram Patel, Aged About 32 years,

Both are R/o. Village – Arjuni, Police Station & Post – Pithora,
District – Mahasamund (C.G.)

----Applicants

Versus

State of Chhattisgarh, Through : Special Police Station – (A.J.K.),
Mahasamund, District- Mahasamund (C.G.)

---- Respondent

&

M.CR.C. No. 7470 of 2016

Ishwar Patel, S/o. Late Shri Harishankar Patel, Aged About 39 Years,
R/o. Village Arjuni, Police Station & Post Pithora, Civil & Revenue
District Mahasamund, Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh, Through : Special Police Station – (A.J.K.),
Mahasamund, District- Mahasamund (C.G.)

---- Respondent

For Applicants	: Mr. Manoj Paranjpe, Advocate
For Respondent/State	: Ms. Sunita Jain, Panel Lawyer
For Objector	: Mr. Gaurishankar Patel, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

29/11/2016

1. Both the bail applications are being heard and decided together
being arising out of the common incident.

2. This is the second bail application for the applicants Pradeep Patel & Netram Patel and third bail application for the applicant Ishwar Patel 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.227/2015, registered at Police Station– Special Police Station– (A.J.K.) Mahasamund, District- Mahasamund (C.G.) for the offence punishable under Section 294, 323, 506/34, 452 & 354 of Indian Penal Code and Section 3(1)(x) & 3(1)(xi) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. The first bail application of the applicants was rejected on 01.07.2016 and subsequently, the applicant Ishwar Patel filed the second bail application, which was rejected on 05.08.2016.
3. Case of the prosecution, in brief, is that on 26.09.2015 at village Arjuni, the victim was caught hold of by the present applicants on the allegation that she is in relation with a boy of village named Pankaj Thakur and thereafter the lady and boy were tied together and were dragged to the street of the village. It was to the extent that victim was made to parade in the street of the village by taking out the clothes and she was abused filthily and assaulted. The incident happened from 11.00 am till 6.00 pm approximately.
4. Learned counsel for the applicants would submit that the applicants are in jail since 26.04.2016 and out of 20 witnesses only 5 witness have been examined. It is further submitted that the change of circumstances would lead to show that the prosecutrix has been examined before the Court on 18.10.2016 wherein she has not

stated that she was subjected to parade naked in the village, which was one of the reasons of earlier rejection of bail. It is submitted that the applicants have been falsely implicated because of rivalry in the village out of the election and therefore at least the applicants are entitled for the bail as witnesses have not turned up alongwith the fact that the main allegations have been diluted against the present applicants by the prosecutrix/victim herself. It is further submitted that the objection has not been filed by the prosecutrix but it is filed by the prosecution witness, which shows the false accusation, therefore, the applicants may be released on bail.

5. On the other hand, learned counsel for the State as well as counsel for the Objector vehemently opposes the bail application. It is submitted by the counsel for the State & Objector that it is not a case that the incident has been denied. It is contended that prosecutrix have admitted to have compromised with the applicants would go to show that there is tampering of evidence. It is further submitted by the counsel for the objector that threat was also extended to the counsel for which he had made a report to the Superintendent of Police. It is further submitted that if the applicants are enlarged on bail, the witnesses shall be under fear and would be tampered. It is further submitted by the objector that the main victim was kidnapped before the incident and on the day of evidence, she came with defence counsel. He referred to various report filed alongwith the objection and submits that the objection has been preferred in this bail petition by Sukwaro Dhruw, mother of the victim; Udal Dhruw, father of the victim; Kanhaiya Dhruw,

maternal uncle of the victim and Daleshwar Patel, who is the eye-witness.

6. Perused the earlier rejection order and presently the statement of the victim. In her deposition, the victim has admitted the fact that a compromise has been affected between the victim and the applicants. Reading the statement would show that the victim has not deposed against the applicants. The statement of Pankaj Kumar Thakur is also placed on record with whom it is alleged that the victim was made to parade naked in the village. The witness Pankaj Kumar Thakur has supported the case of the prosecution. The documents filed alongwith the objection contains certain photographs which also reflects that the victim was at one point of time had gone for hunger strike. The report by Udal Dhruw, father of the prosecutrix, is also filed wherein it is stated that before the evidence to be recorded, the victim was kidnapped at the behest of applicants. Certain paper cuttings are also placed on record alongwith C.D. in support of commission of offence. The counsel for the objector has stated that the C.D. contains the entire incident, which was recorded. The report by the counsel for the objector is also on record dated 17.10.2016 addressed to the Superintendent of Police, District Mahasamund, alleging that he was subjected to threat, if he supports the prosecution.
7. Perusal of statement of the prosecutrix though not has deposed against the applicants, the statement of Pankaj Kumar, who was also assaulted alongwith the prosecutrix over the allegation that the prosecutrix had illicit relation with him, has supported the case of

the prosecution, whereas, the prosecutrix has stated that compromise has been affected. Therefore at this stage divergent statement of prosecutrix is on record. The allegations of incidence admittedly was not done at close doors but it was at open public view. Therefore, the nature of evidence by prosecutrix will not hold the entire sway. Reading of the statement of the prosecutrix as also the witness who was subjected to the incident alongwith the documents placed on record would prima facie lead to form an opinion that the applicants have certainly exerted pressure and tactics to tamper the evidence. The various report made by the objector and the fact that at the relevant time after the incident, it had severe repercussion in the society cannot be shelved. Consequently, taking into totality of the facts, this Court is of the prima facie opinion that there has been efforts and pressure in what ever means have been exerted by the applicants to tamper the evidence. In the result, I am not inclined to release the applicants on bail.

8. As the argument has been advanced by the learned counsel for the applicants that the applicants are in jail since 26.04.2016, such argument cannot be appreciated in view of the conduct of the applicants which prima facie shows that the efforts have been made to tamper the evidence as the right of speedy trial also runs parallel to the fair justice to the victim.
9. Accordingly, both the bail applications are rejected.
10. Considering the various reports and the report made to the Superintendent of Police, it is directed that concerned

Superintendent of Police shall look into the matter to ensure the witnesses are not pressurised or threatened and fair trial is ensured. The Superintendent of Police shall be free to take action in accordance with law so as to allow the truth to come to fore for impartial trial.

Sd/-
(Goutam Bhaduri)
Judge

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