

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.713 of 2017

1. Dukalu S/o Shri Raghu Aged About 48 Years Caste Satnami, R/o Village- Khairjhitti, Thana & Tahsil- Bilaigarh, Civil & Revenue District Balodabajar- Bhatapara, Chhattisgarh.
2. Smt. Darasmoti W/o Shri Dukalu Aged About 45 Years Caste Satnami, R/o Village- Khairjhitti, Thana & Tahsil- Bilaigarh, Civil & Revenue District Balodabajar- Bhatapara, Chhattisgarh.

---- Petitioners

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Saraypali, Civil & Revenue District Mahasamund, Chhattisgarh.

---- Respondents

For Petitioners : Shri Sunil Sahu, Advocate
For Respondent/State: Shri D. R. Minz, Dy.GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/02/2017

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.377/2016 registered at Police Station Saraypali, District Mahasamund for the offence punishable under Section 363, 376, 212 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicants alleged to have harboured the co-accused, who has committed rape on the prosecutrix.

4. Learned counsel for the applicants submits that the applicants are parents of the co-accused, against whom, there is a allegation of rape on a minor girl. He submits that from the statement of the prosecutrix recorded before the Magistrate under Section 164 Cr.P.C., there is nothing to show that the

applicants had played any role or connectivity with the alleged commission of offence, therefore, there is total absence of *mens rea*. It is submitted that the applicants are in jail since 20-12-2016 and charge sheet has not been filed and further custodial interrogation of the applicants are not necessary and at this stage, when there is no likelihood to abscond or tamper with the prosecution witnesses, the applicants may be granted bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that the applicants, who alleged to have harboured the co-accused, knowing fully well that he has committed an offence, therefore, prima facie case of commission of offence under Section 212 of IPC is made out against the applicants.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C. and further taking into consideration the nature and extent of alleged involvement of the applicants in this case and that custodial interrogation of the applicants does not appear to be necessary and further that there is no likelihood to abscond or tamper with the prosecution witnesses or hamper just and fair trial by the applicants, the application is allowed.

7. It is ordered that the applicants shall be released on bail on each of them furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. They shall appear before the trial Court regularly on each and every date, unless exempted.

Sd/-

(Manindra Mohan Shrivastava)

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