

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5500 of 2017

Manish Nirmalkar S/o Hardev, Aged About 40 Years R/o Ravan Bhata, Pithoura,
Police Station Pithoura, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Pithoura,
District Mahasamund, Chhattisgarh.

---- Respondent

And

MCRC No. 6959 Of 2017

Smt. Madhu W/o Late Mohanlal Sher Aged About 47 Years R/o 59, Old
Compound Mandi Road House , Bhagwandas Road New Delhi, G. P. O. New
Delhi 110001.

---- Applicant

Vs

State Of Chhattisgarh Through Station House Officer , Police Station Pithoura ,
District Mahasamund Chhattisgarh.

---- Respondent

For Applicants	:	Smt. Fouzia Mirza, Advocate
For State	:	Shri Avinash Singh, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/12/2017

Heard.

1. MCRC No.5500 of 2017 and MCRC No.6959 of 2017 are being disposed off by this common order as the applicants in these bail applications are arrested in connection with Crime No.33 of 2017 registered at Police Station- Pithoura, District- Mahasamund (C.G.) for the alleged commission of offence under

Sections 376, 376-A , 366, 342, 494, 495, 328, 506, 323/34 IPC.

2. Case of the prosecution, in brief, is that applicant Manish giving threat in order to compel the prosecutrix to marry, kidnapped her and thereafter raped. The allegation against applicant- Madhu is that she is the sister of applicant- Manish and Manish had stayed in the house of this lady along with prosecutrix where the prosecutrix was subjected to rape.
3. Learned counsel for the applicants submits that the entire case of the prosecution is a falsehood and afterthought story. Applicant Manish and the prosecutrix had an affair and the prosecutrix married the applicant and they lived together for a long time. It is only when later on some disputes arose that the prosecutrix started making allegation against the applicants. It is submitted that the investigation is complete and charge sheet has been filed and even the prosecutrix has also been examined and the way she has attempted to move with the applicant to different places months together and having married clearly shows that it is a case of consent and only because of subsequent dispute, report has been lodged by the prosecutrix.
4. On the other hand, learned counsel for the State opposing the bail applications submits that the prosecutrix has clearly stated that the applicant- Manish had threatened her of dire consequences because of which the prosecutrix unwillingly proceeded along with the applicant and was made to reside with him at different places where she was subjected to rape.
5. Taking into consideration the submissions made by learned counsel for the parties, taking into consideration the circumstances in which the offence is alleged to have been committed, age of the prosecutrix and that the prosecutrix states regarding long period during which she was subjected to sexual intercourse before FIR was lodged, the application is allowed.
6. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicants shall 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/-
(Manindra Mohan Shrivastava)
Judge

Praveen