

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 118 of 2017

1. Sahodra Bai W/o Sumer Singh, Aged About 50 Years R/o Village Reevagahan, Thana Dongargarh, District Rajnandgaon, Chhattisgarh.
2. Sumer Singh S/o Herilal Verma Aged About 52 Years R/o Village Reevagahan, Thana Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Thana Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

23/01/2017

Heard.

1. The applicants have been arrested in connection with Crime No. 181 of 2014 registered in Police Station- Dongargarh, District -Rajnandgaon (C.G.) for the alleged commission of offence under Sections 363, 366, 366-A & 376 IPC and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that applicant No.2 was involved in rape of the prosecutrix who is minor. It is alleged that the applicant No.1 facilitated commission of offence by applicant No.2.
3. Learned counsel for the applicants submits that the allegation of applicant No.2 committing offence of rape and his wife/applicant No.1 also associated, is highly improbable. It is next submitted that the prosecutrix has already been examined in the trial Court and she has clearly stated that there was a dispute and enmity

existing between the prosecutrix's family and the family of the applicant and a false allegation was levelled against the applicants. The prosecutrix has not supported the case of the prosecution and turned hostile. Learned counsel for the applicants further submits that the applicants are not likely to abscond and there is no allegation of them having tampered with the prosecution witnesses. The other two accused have already been acquitted, therefore, the applicants may also be released on bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the applicants were earlier absconding and they are arrested only in the month of October, 2016. Therefore, in these circumstances, if the applicants are granted bail, they are likely to again abscond which may affect completion of trial.
5. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicants that the prosecutrix has been examined by the trial Court and she has turned hostile and not supported the case of the prosecution against the present applicants and also the submission based on previous enmity between the family of the prosecutrix and the applicants, I am inclined to allow the application.
6. The application is accordingly allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.20,000/- 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