

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 91 of 2017

1. Smt. Gayatri Rajput W/o Shri Jageshwar Prasad Rajput, Aged About 48 Years, R/o Village Lakhasaar, Police Station Hirri, District Bilaspur, Chhattisgarh
2. Kumari Shakuntala Rajput D/o Shri Jageshwar Prasad Rajput, Aged About 19 Years, R/o Village Lakhasar, Police Station Hirri, District Bilaspur, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh Through: Station House Officer, Police Station Hirri, District- Bilaspur, Chhattisgarh

---- Non-applicant

For Applicants – Shri P.P.Sahu, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

20-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the P.S. Hirri, District Bilaspur, C.G. had registered Crime No.6/2017 under Section 294, 323, 376, 506 Part II/34 of the IPC. The matter is under investigation. There is no material for involvement of present applicants in offence under Section 376 of the IPC in any manner. The case of the prosecution is not that the applicants acted in furtherance of any act regarding rape by co-accused Bhanu Rajput. There is no any MLC conducted by concerned doctor showing the injuries received over body of the prosecutrix. Only as per written report and statement of the prosecutrix under Section 161 of the Cr.P.C. on 29-12-2016 both the applicants and co-accused Bhanu Rajput, son of applicant No.1 and brother of applicant No.2, uttered obscene words to the prosecutrix, gave threat to take the life and both the applicants assaulted by hands and fists and thereafter the prosecutrix was left at village Salampur. The applicants are not answerable for

any of the ingredients of the offence rape committed, for the sake of argument, by co-accused Bhanu Rajput. Their role surfaced during investigation is only attracted for non-bailable offence is 506 part II of the IPC. They are first offender. They will not commit any offence in future. They may be granted bail in case of arrest, hence, they may be granted anticipatory bail.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants.

4. Perused the entire material.

5. After perusal of the written report, statement under Section 161 of the Cr.P.C. and statement under Section 161 of the Cr.P.C. recorded during investigation, it appears that only allegation which is subject matter of the instant MCRCA is threat to take the life leveled against the applicants. Other Sections, prima facie, attracted so far are bailable. There is no any possibility, prima facie, for other material to be surfaced during investigation as the FIR is lodged on 10-01-2017 by Hirri police, more than 3 months and 10 days elapsed.

6. On due consideration, without commenting anything on its merit, I am inclined to grant anticipatory bail to the applicants. Consequently, the instant MCRCA is hereby allowed. In the event of arrest by the Investigating Official/Official of Police Station Hirri in connection with Crime No.6/17/Judicial Magistrate having jurisdiction in the matter, the applicants shall be released on bail provided that each of them furnishes a personal bond in the sum of Rs.25,000/- along with surety of the equal amount to the satisfaction of the concerned police official/concerned Judicial Magistrate. The applicants are directed to cooperate with the investigation. They shall mark their appearance before the IO/police official as and when directed for the purposes of investigation and also remain present as and when directed by the concerned remand court/trial court till disposal of the matter.

7. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE