

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8302 of 2016

1. Ravilal Alias Ghato S/o Shri Roop Singh Aged About 19 Years R/o Kaandsar, Police Station Indagaon, District Gariyabandh, Chhattisgarh.
2. Puran Singh S/o Shri Sop Singh Aged About 25 Years R/o Kaandsar, Police Station Indagaon District Gariyabandh, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through The Police Station Indagaon District Gariyabandh, Chhattisgarh.

---- Respondent

For Applicants	:	Shri Anjinesh Shukla, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

02/01/2017

Heard.

1. The applicants have been arrested in connection with Crime No. 17 of 2016 registered in Police Station- Indagaon, Gariyabandh for the alleged commission of offence under Sections 294, 506, 323, 457, 354 read with Section 34 IPC and Section 12 of the Protection of Children from Sexual Offences Act.
2. Case of the prosecution, in brief, is that the applicants entered the house of the prosecutrix and then they assaulted the members of the family as also the prosecutrix and outraged her modesty.
3. Learned counsel for the applicants submits that from the statement under Section 164 Cr.P.C. of the prosecutrix recorded by the Magistrate there is nothing to indicate that there was any intention to outrage modesty of the prosecutrix and what the prosecutrix has stated is that the applicants entered the house in the night, threw away her mother from house and thereafter beaten

up prosecutrix and her sister. She has also stated that except this, they did nothing. Therefore, it cannot be said that a prima facie case under Section 354 IPC is made out or for that matter offence under Section 12 of the POCSO Act. The applicants are in jail since 19.8.2016, investigation is complete and charge sheet has been filed and they are not in a position to abscond or tamper with prosecution witnesses or likely to abscond, therefore, they may be granted bail taking into consideration the maximum punishment which could be awarded under Section 354 IPC and also taking into consideration the trivial nature of injury.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the manner in which the applicants entered the house of the prosecutrix in the night and gave assault prima facie makes out a case against them. Therefore, at this stage, the applicants are not entitled for grant of bail.
5. Having heard learned counsel for the parties, taking into consideration the submission that entire statement of the prosecutrix under Section 164 Cr.P.C. does not prima facie make out any case that the applicants entered the house and gave a beating with intent to outrage modesty and further taking into consideration the trivial nature of injury and that the investigation is complete and charge sheet has been filed and that the applicants do not seem to be persons of any criminal antecedents, 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