

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 485 of 2018**

1. Anchal Bharadwaj, S/o. Vyasnarayan, Aged About 19 Years,
2. Chandan Bharadwaj, S/o. Vyasnarayan, Aged About 21 Years,
R/o. Village -Dhruwakari, Police Station -Pachpedi, District -Bilaspur,
Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station-
Pachpedi, District -Bilaspur, Chhattisgarh.

---- Respondent

For Applicants : Mr. Dharmesh Shrivastava, Advocate

For State/respondent : Mr. Vijay Bahadur Singh, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****21/03/2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.151/2017, registered at Police Station – Pachpedi, District – Bilaspur (C.G.), for the offence punishable under Section 376-D of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. Prosecutrix in this case has made totally false allegation, which is reflected from gradual improvement in her statement. The first FIR that was lodged on

26.09.2017, which is mentioned in her statement under Section 161 of Cr.P.C. was lodged for the offence of causing hurt to her. The present FIR was lodged on 29.09.2017, alleging offence of gang rape committed by these applicants and two others. Whereas, in her statement under Section 164 of Cr.P.C., she has stated that offenders of gang rape were total 10 in numbers. The medical report also does not support the case of the prosecution, hence, no case is made out against this applicant. Therefore, prayed that the applicants may also be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that so far the prosecutrix states that she has been raped has a presumptive value, hence, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The allegation against the applicants is this that on the date of incident both these applicants along with two others committed gang rape with her in jungle. In her statement under Section 161 of Cr.P.C., the prosecutrix had disclosed though the offence was committed on 24.09.2017, she lodged FIR on 26.09.2017 against the applicants and others alleging only causing simple hurt to her, but later on, when applicant No.2 refused to marry the prosecutrix, she has come forward to lodge the current FIR.
6. Considered on the submissions made and the contents of the case diary and also perused the statement under Section 164 of Cr.P.C. given by the prosecutrix, in which she states that she has been gang

raped by 10 persons including both these applicants. Looking to the gradual development and improvement in statement made by the prosecutrix, this Court is of the opinion that present is a fit case, in which, the applicants should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge