

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 115 of 2018

1. Rambilas Kushwaha Shri Ayodhya Prasad Kushwaha Aged About 26 Years Caste Koiri, R/o Village Mendhari, Police Station Basantpur Tahsil Wadrafnagar, Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
2. Ayodhya Prasad Kushwaha S/o Shri Bhoki Ram Kushwaha Aged About 55 Years Caste Koiri, R/o Village Mendhari, Police Station Basantpur Tahsil Wadrafnagar, Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
3. Sunita Devi W/o Shri Ayodhya Prasad Kushwaha Aged About 50 Years Caste Koiri, R/o Village Mendhari, Police Station Basantpur Tahsil Wadrafnagar, Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
4. Urmila S/o Ayodhya Prasad Kushwaha Aged About 22 Years Caste Koiri, R/o Village Mendhari, Police Station Basantpur Tahsil Wadrafnagar, Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
5. Arvind S/o Ayodhya Prasad Kushwaha Aged About 18 Years Caste Koiri, R/o Village Mendhari, Police Station Basantpur Tahsil Wadrafnagar, Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

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Versus

State Of Chhattisgarh Through Station House Officer, Police Station Basantpur
Dist. Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

Shri Arun Kumar Shukla, counsel for the applicant/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/02/2018

Heard.

The applicants are apprehending their arrest in connection with Crime No.104/2016 registered at Police Station – Basantpur, District - Balrampur (CG) for alleged commission of offences under Section 363, 366, 376, (2ढ), 323, 342, 34 of IPC and Section 5 (ढ) / 6 of the Protection of Children from Sexual Offences Act, 2012 and 3 (b) (i), 3 (2) (V) of the Scheduled Caste and Scheduled Tribes

(Prevention of Atrocities) Act, 1989.

2. At the outset, learned counsel for the applicants seeks to withdraw the application of **Rambilas Kushwaha, Ayodhya Prasad Kushwaha** and **Arvind** with the submission that these applicants are willing to surrender, cooperate with the investigation and apply for grant of regular bail.

3. On such statement, the applications of applicants - **Rambilas Kushwaha, Ayodhya Prasad Kushwaha** and **Arvind** are dismissed as withdrawn with the liberty as prayed for. It is observed that in case, the aforesaid applicants surrender and apply for grant of regular bail, the same shall be considered and decided by the Trial Court as early as possible, preferably within three days.

4. As far as applicants – Sunita Devi and Urmila are concerned, learned counsel for the applicants would submit that the nature of allegations made against these two applicants appear to be improbable as they are the family members of the main accused – Anil Kushwaha and it is highly improbable that they would be engaging in commission of alleged offence. Learned counsel for the applicants would further submit that the allegations having committed rape on the prosecutrix is on the main accused – Anil Kushwaha and the present applicants are his family members and they have been involved only on the ground that they are the mother and sister of the main accused. Therefore, the present applicants may be protected by an anticipatory bail as they are not likely to abscond or tamper with the prosecution witnesses and even without their arrest, effective investigation can be carried out.

5. Learned State counsel opposes and submits that the allegations against Anil Kushwaha is that he committed rape on the prosecutrix who is minor in age, kept her with him for a long time in a room away from his house and later on, the said girl was brought to the house of Anil Kushwaha by his family members including the present applicants. Therefore, the present applicants are equally involved in this case.

6. Taking into consideration the submission of learned counsel for the parties, totality of the circumstances, role alleged to be played by the applicants – **Sunita Devi** and **Urmila** and specially taking into consideration that they are the female members of the family of the main accused, I am inclined to protect the applicants by granting anticipatory bail.

7. Accordingly, applications of **Sunita Devi** and **Urmila** are allowed. It is directed that in the event of arrest of applicants - **Sunita Devi** and **Urmila** in connection with the aforesaid offence, they 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 arresting officer and they shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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