

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4677 of 2018**

1. Anil Lakda S/o Shri Filo Lakda Aged About 26 Years R/o Village Petla (Lahupani) Police Station And Tahsil Sitapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. Mikal Ekka S/o Shri Kamil Ekka Aged About 20 Years R/o Village Petla (Lahupani) Police Station And Tahsil Sitapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station And Tahsil Sitapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant	: Mr. Vineet Kumar Pandey, Advocate
For State/respondent	: Mr. Anant Bajpai, PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/07/2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.53/2018, registered at Police Station Sitapur, District-Surguja(C.G.) for the offence punishable under Sections 341, 354(B), 323, 376(घ),

506, 366(A) 34 of the Indian Penal Code and Section 9(घ)/10 & 5(घ)/6 Protection of Children from Sexual Offence Act 2012.

2. It is submitted by the learned counsel for applicant that the applicants have been falsely implicated in this case. They are in jail since 10.4.2018. No case is made out against them. The prosecutrix has given statement under Section 164 of CrPC omitting the allegation of rape against these applicants which shows that the case is concocted against them, hence, it is prayed that he may be released on 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 the prosecutrix is a minor girl. She had earlier given statement about commission of rape against her and also the FSL report confirms the present of human spermatozoa on the clothes of the prosecutrix. For these reasons, the applicants are not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to prosecution case, on the date of incident these applicants along with other co-accused persons stopped the prosecutrix, who was travelling on a motorcycle and then by force and by putting her under threat took her to a place of jungle and then she was gang raped. Hence, this case.
6. Considered on the entire material present in the case diary, in the statement of prosecutrix recorded under Section 164 of CrPC she has made a material omission, which is taken into consideration and on that basis, I feel inclined to grant bail to the applicants.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha