

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4974 of 2018**

1. Kailash Nishad S/o Ruprai, Aged About 22 Years R/o Dhaneli Kanhar, Police Station Korar, District South Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh
2. Omkar Sinha, S/o Devcharan Sinha, Aged About 32 Years R/o Village Tengana, Badpara, Tahsil Gurur, Police Station Gurur, District Balod Chhattisgarh., District : Balod, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Korar Civil And Revenue District South Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh.

---- Respondent

For the Applicants : Shri Bharat Lal Sahu, Advocate.
 For the Respondent/State : Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.08.2018**

Heard.

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.15 of 2018, registered at Police Station – Korar, District South Bastar, Kanker, Chhattisgarh for the offence punishable under Sections 376(dha), 450/ 34, (452 mentioned in challan) and 506 of the Indian Penal Code and Sections 3(2)(5)/ 34 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicants submits that the applicants are in jail since 8.3.2018 and have been falsely implicated in this case. No case is made out against the applicants on the basis of the material placed before

the Court by the prosecution. The prosecutrix has been examined before the trial Court; she turned hostile and has not supported the case of the prosecution. Hence, it is prayed that the applicants be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect.

4. Heard counsel for both the parties and perused the case diary.

5. The prosecutrix is a member of Scheduled Tribe. It is alleged that finding the prosecutrix alone in her place of residence both the applicants forced their entry into the house of the prosecutrix and then committed the offence of gang rape with her. Hence, this case.

6. Considered the entire material present in the case-diary and perused the certified copy of the statement of the prosecutrix before the concerned trial Court, wherein she has been declared hostile for not supporting the case of the prosecution. Hence, for these reasons, this application deserves to be allowed.

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 each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed. In case any default is committed by the applicant/s in

appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi