

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5140 of 2018

- Anuj Tiwari Alias Vicky S/o Shri Sushil Tiwari Aged About 21 Years R/o Devraj Nagar, Thana Ram Nagar District Satna Madhya Pradesh Presently R/o Kailash Nagar Banjari Thana Khamtarai Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Khamtarai Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

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MCRC No. 5528 of 2018

- Rohit Tiwari S/o Mr. Late Ram Sardar @ Deo Narain, R/o- Amliya, Tarhar, P.O. Lalapur, P.S. Lalpur, District- Allahbad U.P. Present Address Tranport Nagar, Ravabhanta, P.S. Khamtarai, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Police Station Khamtarai, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicants : Mr. Ashok Yadav and Mr. Raza Ali,
Advocates.
For Respondent : Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/08/2018

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. The bail application of this applicant in MCRC No.5140/2018 is the second bail application. His first bail application has been dismissed as withdrawn.
3. Both these applications filed under Section 439 of the Code of Criminal Procedure, 1973 are second bail applications on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.344/2017 registered at Police Station-Khamtarai, District – Raipur(C.G.) for the offence punishable under Section 376 D of Indian Penal Code (for short 'IPC').
4. Learned counsel for the applicants submits that applicants are innocent and have been falsely implicated in this case. No case is made out against these applicants. The prosecutrix has been examined before the trial Court and she has not supported the prosecution case and has made no adverse statement against both these applicants. Hence, it is prayed that they may be released on regular bail.
5. Learned counsel for the respondent/State opposes the applications and submissions made in this respect.
6. Heard both the parties and perused the case diary.
7. The allegation against both these applicants is this, that on the date of incident the applicants in both the cases committed the offence of gang rape with the prosecutrix regarding which, FIR was lodged by her.

8. Considered on the entire material present in the case diary and also perused the certified copy of the deposition of the prosecutrix before the trial Court, which shows that she has not supported the case of prosecution for which she has been declared hostile. Looking to development of things, I am of this view that this is a fit where applicants be released on regular bail.
9. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a 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