

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5619 of 2018**

1. Govind Sirdar, son of Khagendra Sirdar, aged about 48 years, Caste Namoshudra, R/o PV-12 Pakhanjur, District North Bastar Kanker(CG).
2. Surjeet Devnath son of Shri Haripad Devnath, aged about 22 years, R/o PV-35 Pakhanjur, District North Bastar, Kanker (CG).

---- Applicants**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Bhanupratappur, District North Bastar, Kanker (CG).

---- Non-applicant

For Applicants : Mr. N.K. Chatterjee, Advocate

For Non-applicant : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22.10.2018**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the State in connection with Crime No.36/2018 registered in Police Station Bhanupratappur, District North Bastar, Kanker for the offence punishable under Sections 376(D), 506 of IPC and Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
3. The first bail application of the applicant was dismissed as withdrawn with liberty to renew the prayer for bail after the statement of the prosecutrix is recorded in the Court by co-ordinate Bench of this Court on 03.07.2018 passed in M.Cr.C. No.4317 of 2018.
4. Case of the prosecution, in brief, is that on 22.03.2018 the prosecutrix was aged about 49 years old. On 22.03.2018 at about 11:00 am, the applicants entered into the house of prosecutrix and committed gang rape with her. After some time, they took her in the house of

Dhanesh Patel and again they both committed gang rape with her.

5. Counsel for the applicants submits that the applicants have not committed any offence and have been falsely implicated in the case. He further submits that the prosecutrix has examined before the trial Court and she turned hostile hence the applicants may be released on bail.
6. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicants.
7. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
8. As per photocopy of statement of the prosecutrix, she has stated against the applicants in examination-in-chief though she was declared hostile by the prosecution.
9. What would be effect of the statement of the prosecutrix may be decided by the trial Court at the time of final disposal of the case.
10. Looking to the facts and circumstances of the case, looking to the seriousness of offence and looking to the impact of granting bail to the applicants on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicants.
11. Consequently, the bail application is rejected.
12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-