

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No.7042 of 2018**

Smt. Revti Gurjar, wife of Parmal, aged about 28 years, R/o Village Bairsiya,
Police Station Kolaras, District Shivpuri (M.P.). **---- Applicant**

Versus

State of Chhattisgarh, Station House Officer, Police Station Kota (Kargiroad),
District Bilaspur (CG). **---- Non-applicant**

AND**MCRC No.7386 of 2018**

Rakesh Yadav @ Halke, son of late Jagdish Yadav, aged about 28 years, R/o
Village Bairsiya, Police Station Kolaras, District Shivpuri (M.P.) **---- Applicant**

Versus

State of Chhattisgarh, through Station House Officer, Police Station Kota
(Kargiroad), District Bilaspur (CG). **---- Non-applicant**

For Applicants : Mr. Devesh Chandra Verma, Advocate

For Non-applicant : Mr. Ashok Kumar Swarnkar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****12.12.2018**

1. Above mentioned two bail applications arise out of a common Crime No.142/2018 (wrongly mentioned as 242/2018) registered at Police Station Kota (Kargiroad), District Bilaspur for the offence punishable under Sections 363, 366, 376, 34 of IPC and Section 8 of Protection of Children from Sexual Offences Act, therefore, they are being heard analogously and decided by this common order. All the two are first bail applications filed under Section 439 of the CrPC.
2. Prosecution story in brief is that the prosecutrix was below than 16 years of age. She is a resident of village Navodanagar, Ameliroad, Kota. In the intervening night of 12/13.01.2018, the applicant Smt. Revti Gurjar, who is a cousin maternal aunt of prosecutrix, took her to Kota and, thereafter, Guna and handed over her to the applicant-Rakesh Yadav @ Halke. The applicant-Rakesh Yadav @ Halke took her and kept her in his house and put vermilion on her forehead and put necklace (Mangal-sutra) in her neck in the temple. The applicant -Rakesh Yadav committed repeatedly sexual intercourse with her.

3. Counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. He further submitted that there is a delay of five months in lodging the FIR and no case is made out under Section 363 & 366 of IPC and another applicant-Smt. Revti Gurjar being a woman hence they may be released on bail.
4. Counsel for the State opposed the prayer for grant of bail. However, he further submitted that no criminal antecedent reported against the applicants in police case diary.
5. What would be effect of delay in lodging FIR may be considered by the trial Court at the time of final disposal of the case.
6. Looking to these facts and circumstances of the case, looking to the seriousness of the 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 CrPC to the applicants. Consequently, the bail applications (M.Cr.C. No.7042/2018 & M.Cr.C. No.7386/2018) are rejected.
7. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-