

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7618 of 2017

1. Laxmidas S/o Jaduram, Aged About 21 Years, Residing At Village Devada, Police Station Bhanpuri, District Bastar, Chhattisgarh., Chhattisgarh
2. Bhupendra Lahare, S/o Ichchharam Lahare, Aged About 22 Years, R/o Village Garka, Police Station Keshkal, District Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Police Station Kanker, District North Bastar, Kanker, Chhattisgarh., Chhattisgarh

---- Non-applicant

For Applicants – Shri Pravin Kumar Tulsyan, Advocate.
For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

12-02-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application filed by the applicants for regular bail before this Court. The applicants have been arrested on 04-03-2017 in connection with Crime No.80/2017 registered at Police Station Kanker, District Kanker, Chhattisgarh for the offence under Section 363, 366, 376(2) and 34 of the IPC and under Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. No case of rape is made out against the applicants on the basis of statement of the prosecutrix under Section 164 of the Cr.P.C. They are in jail since 04-03-2017. They are local residents of District Bastar and Kondagaon and there is no likelihood of their absconding and they are ready to abide by all the conditions imposed on grant of bail. It is also submitted that co-accused in this case has been granted bail by coordinate Bench of this Court in MCRC No.5750/2017 vide order dated 24-11-2017. Hence, it is prayed that the applicants may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made. It is submitted that the prosecutrix had been minor on the date of incident and there is no question of consent from her side, because of which, no case is made out for grant of bail to these applicants. Hence, the application may be dismissed.
4. Heard learned counsel for the parties and perused the case diary.
5. As the case is, on the date of incident both the applicants arrived on a motorcycle on the spot where the prosecutrix was walking towards her residence, she was forced by both the applicants to sit on the motorcycle and she was taken to a place where she was kept in confinement, similarly she was kept in confinement in two other places before she was recovered by the police. It was alleged by her in her statement under Section 161 of the Cr.P.C. that applicant No.1 committed the offence of rape with her. Hence, this case.
6. Considered on the submissions made and contents of the case diary.
7. On perusal of the statement of the prosecutrix under Section 164 of the Cr.P.C., there appears to be some omission in her statement compared to the statement given by her to the police earlier. Taking into consideration all the material present in the case diary and that the co-accused in this case has been granted bail by the coordinate Bench of this Court, I am of this view that the applicants should be granted regular bail in the present matter.
8. Consequently, the application (MCRC No.7618/2017) filed under Section 439 of the Cr.P.C. by the applicants is hereby allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge