

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 247 of 2018

1. Sukhen S/o Sukhdeo Chandrakar, Aged About 46 Years, R/o Village Narauli, Police Station Kunda, District Kabirdham Chhattisgarh. , Chhattisgarh
2. Suresh S/o Sukhdeo Chandrakar, Aged About 41 Years, R/o Village Narauli, Police Station Kunda, District Kabirdham Chhattisgarh. , District : Kawardha (Kabirdham), Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kunda, District Kabirdham Chhattisgarh. , Chhattisgarh

---- Non-applicant

For Applicants – Shri Wasim Miyan, Advocate.

For Non-applicant/State – Shri Vijay Bahadur Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-02-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 05-11-2017 in connection with Crime No.42/2016 registered at P.S. Kunda, District Kabirdham, Chhattisgarh for the offence under Section 376D, 506, 34 of the IPC.
2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case on account of enmity with family of the prosecutrix, because applicant No.1 had made a written complaint against husband of the prosecutrix. No case is made out against these applicants on the basis of material present in the charge sheet filed against them. It is further submitted that the prosecutrix has been examined before the trial Court and she has turned hostile by not supporting the case of prosecution. The applicants are in jail since 05-11-2017. Hence, in these circumstances, it is prayed the applicants may be granted regular bail.
3. Learned counsel for the State/non-applicant opposes the application

and submission. It is submitted that investigation shows clear evidence of allegation against these applicants about committing gang rape with the prosecutrix. Hence, they are not entitled for grant of bail.

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

5. FIR was lodged by the prosecutrix herself on 19-03-2016 alleging that when she had been out to answer the call of nature, both the applicants caught hold of her and forcibly committed rape with her. On that basis, the case has been registered against these applicants.

6. Considered on the submissions made and the contents of the case diary.

7. On perusal of the certified copy of deposition of the prosecutrix before the trial Court attached with this application, it is clear that the prosecutrix has turned totally hostile and has not made any statement in support of the prosecution. Hence, looking to this change of circumstances, I am of this view that the applicants deserves to be enlarged on bail.

8. Consequently, this application filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail 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