

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 8801 of 2018**

1. Rajeshwar Nirmalkar S/o Shivkumar @ Shivprasad Nirmalkar
Aged About 20 Years R/o Village Madanpur, P. S. Mungeli, Tahsil
And District Mungeli, Chhattisgarh
2. Smt. Shitala Bai W/o Shivkumar @ Shivprasad Nirmalkar, Aged
About 40 Years, R/o Village Madanpur, P. S. Mungeli, Tahsil And
District Mungeli Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Station House Officer, Police
Station Jarhagaon, District Mungeli, Chhattisgarh

---- Respondent

For Applicants	:	Shri Rajesh Jain, Advocate
For Respondent/State	:	Shri D. Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/12/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicants who are in jail since 10.10.2018 in connection with Crime No. 226/2018 registered at Police Station – Jarhagaon, District Mungeli (CG) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 6 of Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the present applicants is that they along with other accused persons are said to have connived and assisted the

main accused Badku @ Parmeshwar in abducting the prosecutrix and in the course thereafter being ravished while the prosecutrix was in the custody of the main accused Badku.

3. Counsel for the applicants submits that the applicants are the brother and mother of the main accused Badku and that the only allegation as per the prosecution against the applicants is that they had assured the main accused after the main accused had eloped with the prosecutrix that they would perform marriage of the main accused with the prosecutrix. He submits that except for the aforesaid allegation there does not seem to have any other role played by the applicants and with the said material, the applicants cannot be implicated for the offence levelled against them. Moreover, the main accused Badku has already been enlarged on bail by this court on 12.11.2018 in MCRC No.8168 of 2018. He further submits that even otherwise, the statement of the prosecutrix under Section 164 CrPC does not support the case of the prosecution. Thus, prayed for grant of bail to the applicants.

4. These facts have not been disputed by the State counsel on verification from the case diary. However, he opposes the bail application drawing the attention of this Court towards the gravity of the offence and also the age of the prosecutrix.

5. Given the aforesaid facts and circumstances of the case, particularly taking into consideration the statement of the prosecutrix under Section 164 CrPC and the fact that the main accused Badku has already been enlarged on bail, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

6. Accordingly, the application for grant of bail is allowed. It is

directed that the present Applicants will be released on bail on their 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 trial Court for their appearance before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**