

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 9968 of 2018

- Kumer Ram Rajak S/o Late Raghuvir, Aged About 22 Years R/o Village Machakala, P.S. Pohri, Tahsil Shivpuri, District Gwalior (Wrongly Mention In The Order Sheet As District Shivpuri,) (M.P.), District : Shivpuri, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O.- Ramanujganj, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Non-applicant

MCRC No. 1223 of 2019

1. Shriram Harijan S/o Lalnram Harijan Aged About 31 Years R/o Village Kachhar, Post Office And Police Station Sonhat, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
2. Khacchuram Harijan S/o Rguniram Jatav Aged About 42 Years R/o Village Devrikhurd, Post Office And Police Station Pohari, District Shivpuri M. P., District : Shivpuri, Madhya Pradesh

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Ramanujnagar (Shrinagar) District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh

---- Non-applicant

For Applicants	: Shri Hemant Gupta and Shri Shivendu Pandya, Advocates.
For Non-applicant	: Shri Washim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

24.04.2019

1. Since both the petitions arise from same crime No., these bail petitions are being disposed off simultaneously.
2. Allegedly informant – prosecutrix is present before the Court.
3. After putting some questions, this Court is satisfied that the girl who is present before this Court is the prosecutrix.
4. An explanation from the concerned Superintendent of Police is received. The matter is dropped against him.
5. This is first bail application of applicant Kumer Ram Rajak and second bail application of applicants Sriram Harijan and Khacchuram Harijan under Section 439 of the Cr.P.C. preferred by the applicants before this Court and no other bail application is pending before any other Court.
6. Earlier, the first bail application of the applicants Sriram Harijan and Khacchuram Harijan has been rejected by this Court on 31.01.2019 in MCRC No. 5723 of 2018 considering the prima facie case against them.

7. Perused the case diary provided by the learned counsel for the State in connection with crime No. 10/2018 registered at Police Station – Ramanujnagar, District Surajpur (C.G.) for the offence punishable under Section 344, 363, 366, 366(A), 368, 370, 370(A), 373, 376(D), 506, 509 of the IPC and Sections 4 and 12 of the POCSO Act and 18 of J.J. Act.
8. Case of the prosecution, in brief is that on October, 2014, prosecutrix was below 16 years of age. On October, 2014 when applicant – Shriram Harijan was going to leave the prosecutrix to her house on his motorcycle, on the way near the Nala both the applicants -Shriram Harijan and Khacchuram Harijan committed sexual intercourse with her. Taken her nude snaps and given threatening to public it, thereafter they taken away her in different places thereafter committed sexual intercourse with her, they sold her to coaccused Raghuvir for Rs. 2000/-. Raghuvir got married the prosecutrix with his son applicant Kumer. Kumer had also committed sexual intercourse with her. On 05.01.2018 when nobody was present in the house then she reached to the house of her family members.
9. Learned counsel for the applicant Kumer Ram Rajak submits that applicant had performed marriage with prosecutrix, his acts are bonafide, he has no criminal background, he is innocent and has been falsely implicated in the present case, therefore he shall be released on bail.
10. Learned counsel for the applicants Sriram Harijan and Khacchuram Harijan submits that prosecutrix had given statement in favour of them in the trial Court, they have no criminal background, they are innocent and have been falsely implicated in the present case, therefore, they shall be released on bail.
11. On the other hand, learned counsel for the State opposes the bail application however submits that there is not antecedent against the applicants.
12. The informant- prosecutrix submits that she has no objection on releasing the applicant Kumer Ram Rajak on bail but has objection in releasing applicants Sriram Harijan and Khacchuram Harijan on bail.
13. As per the true copy of the statement of the prosecutrix recorded by the trial Court which is part of the bail application, reveals that she had stated against the applicants during examination in chief.
14. She is not totally hostile witness.
15. What would be effect of the statement of the prosecutrix given during the cross examination is the subject matter of the scrutiny. At this stage this Court cannot scrutinize or appreciate the evidence.
16. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, looking to the impact of granting bail to the applicants on society, the present bail applications are rejected.
17. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE