

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 1311 of 2019

1. Surendra @ Chedi S/o Shri Nandlal Aged About 32 Years R/o Village-Dhorabhanta, Police Station- Tamnar, District- Raigarh, Chhattisgarh.
2. Tulsiram S/o Shri Deshrath Aged About 45 Years R/o Village-Dhorabhanta, Police Station- Tamnar, District- Raigarh, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station- Tamnar, District- Raigarh, Chhattisgarh.

---- Respondent

For Applicants	: Ms. Madhunisha Singh, Advocate.
For Respondent/State	: Mrs. Smriti Shrivastava, PL.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

07/03/2019

1. The applicants have preferred this first bail application under Section 439 of Cr.P.C. for grant of regular bail as they are arrested in connection with crime No. 303/2018, registered at Police Station – Tamnar, District- Raigarh (C.G.) for the offence punishable under Sections 323, 376 D of the IPC.
2. In this case, there are three accused persons. Prosecutrix is a married lady aged about 45 years. As per prosecution story, on 28.12.2018 at about 10 PM, co-accused namely Nandu Rathiya dragged the prosecutrix into the forest with the help of present applicants and all of them committed forcefully sexual intercourse with her. On 31.12.2018, a report was made by prosecutrix herself, on the basis of said report offence has been registered and the applicants are taken in custody on 03.01.2019
3. Learned Counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the

case. She further submits that neither the written report of the prosecutrix nor her statement recorded under Section 161 of Cr.P.C. contains the names of the applicants. During the test identification parade, though the prosecutrix identified the applicants, in her statement recorded under Section 164 of Cr.P.C. she has categorically stated that the whole act was done by co-accused Nandu Rathiya and in fact, at the relevant time, the applicants tried to save her from the co-accused but the co-accused beat them. She further submits that the applicants are in custody since 03.01.2019 and trial is likely to take some time. Therefore, they may be released on bail.

4. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
5. I have heard learned Counsel for the parties and perused the case diary with due care.
6. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that in the statement of the prosecutrix recorded under Section 164 of Cr.P.C., she has not supported the case of the prosecution with regard to the applicants, the applicants are in custody since 03.01.2019 and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release the applicants on bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the applicant shall be released on bail on each of them executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for their appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
Judge