

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 489 of 2019

1. Amitesh Arya@ Vijju S/o Shri Prem Arya Aged About 29 Years R/o Shankar Ward Mungeli, District Mungeli Chhattisgarh.
2. Pritesh Arya @ Ajju S/o Shri Prem Arya Aged About 27 Years R/o Shankar Ward Mungeli, District Mungeli Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home Mantralaya Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Superintendent Of Police Mungeli, District Mungeli Chhattisgarh.
3. Station House Officer P.S. Kotwali Mungeli, City Kotwali, Mungeli, District Mungeli Chhattisgarh.
4. Ku. Priyanka Lahre D/o Shri Ganga Ram Lahre Aged About 17 Years R/o Joratalab, House Of Raju Thakur, Sarkanda Bilaspur, District Bilaspur Chhattisgarh, Through Her Natural Guardian And Mother Smt. Sarojani Lahre.

---- Respondents

For petitioner	:	Mr. Rajesh Kumar Kesharwani, Advocate.
For Respondent/State	:	Mr. C.B. Kesharwani, Panel Lawyer.

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

04/09/2019

Heard.

1. The petition has been brought under Article 226 of the constitution of India praying for issuance of a writ of mandamus directing the police authority to produce relevant records before this Court for proper adjudication and to quash the impugned FIR dated 27.6.2019 (Crime No.419 of 2019) as well as criminal prosecution initiated against the

petitioners.

2. Learned counsel for the petitioners submits that the petitioners are reputed persons of District-Mungeli. Prosecution against them for offences under Sections 373, 376, 34 of IPC and Section 4 & 6 of POCSO Act and Section 3(2)(5) of Atrocities Act is totally baseless and without any evidence. It was the petitioner No.1 himself who made complaints in the police-station regarding illegal flesh trade going on near Jhulelal Temple. Copies of complaints given by him on 17.3.2019, 6.4.2019 and 29.4.2019 are filed along with the petition. It is because of the complaints made by petitioner No.1, discovered the sex racket in Mungeli, that is why the persons involved him and have made totally false allegations against these applicants, hence, it is prayed that the petition be admitted for hearing and interim relief be granted to the petitioner.

Reliance has been placed on the judgment of Supreme Court in the matter of Anand Kumar Mohata & another vs. State (Govt. of NCT of Delhi) Department of Home & another, reported in 2018 Law Suit(SC) 1138.

3. Learned State counsel opposes the petition and submissions so made and submits that the petitioners are proclaimed offender. Charge-sheet has been filed after completion of investigation. The minor victims of this case have made statement that they were forced to do prostitution by other accused persons. The victims of this case have made clear statement against the applicants which shows that there is evidence against the applicants that they have committed the offences as alleged, therefore, no case is made out for grant of any relief.
4. I have heard both the parties and perused the documents on record.
5. Perused all the documents filed along with petition and also case diary produced by the State Counsel. The ground raised by the applicants that they have been falsely implicated due to some enmity is the ground in defence which can be proved only in the course of trial. On perusal of the diary statement of the witnesses, especially statement of one of prosecutrix under Section 164 of CrPC, it is found that there is clear and categorical allegation against both the applicants that they

have exploited the victims of case for sexual purposes, therefore, it cannot be said at this stage that the petitioners have been falsely implicated, that means the petitioners will have to establish their defence in trial itself.

6. Not finding any ground to entertain the petition, the petition is dismissed at motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha