

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5055 of 2019

1. Ajay Dubey S/o Deendayal Dubey, Aged About 18 Years, R/o Balani Chowk, Gandhi Ward, Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
2. Yogesh Ku. Dewangan S/o Ishwar Lal Dewangan, Aged About 22 Years, R/o Rajendra Ward, Patwapara, Police Station Mungeli and District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Officer-in-Charge of Police Station City Kotwali, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

For Applicants – Shri Pallav Mishra, Advocate.

For Non-applicant/State – Shri Avinash K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-09-2019

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 23-05-2019 in connection with Crime No.90/2019 registered at P.S. City Kotwali, Mungeli, District Mungeli, Chhattisgarh for the offence under Section 363, 366, 376/34 of the IPC and Section 4 & 6 of POCSO Act & 3 (1)(x) of Atrocities Act.

2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. They are in jail since 23-05-2019. No case is made out against them. The prosecutrix in this case has been examined before the trial Court and she has made some admissions in her cross-examination which shows that the prosecution of the applicants is false. Therefore, it is prayed that they may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix in this case is not hostile witness, therefore, no case is made out for grant of bail.

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

5. According to the prosecution case, the prosecutrix along with one another girl were abducted by these applicants and were taken to a place where applicant No.1 Ajay Dubey attempted to rape the prosecutrix and the co-accused attempted to rape another girl. Hence, this case.

6. On perusal of the copy of the deposition of the prosecutrix of this case, it is found that she has clearly made statement against applicant No.1 Ajay Dubey that he confined her to one room and then attempted to rape her, whereas, there is no specific statement made by her against applicant No.2 Yogesh Ku. Dewangan. Therefore, looking to the evidence that is present in the case diary and also the deposition before the Court by the prosecutrix, I do not feel inclined to grant bail to applicant No.1 Ajay Dubey. However, as case of applicant No.2 Yogesh Ku. Dewangan is different from the case of applicant No.1, therefore, I feel inclined to allow the prayer of applicant No.2 for grant of regular bail made in this application.

7. Consequently, the prayer made by applicant No.2 Yogesh Ku. Dewangan for grant of regular bail is allowed. It is directed that applicant No.2 Yogesh Ku. Dewangan shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge