

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1257 of 2020**

1. Heera Lal Rathore S/o Late Panchram Rathore, Aged About 45 Years R/o Bazar Chouk Ke Paas Sivni, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
2. Smt. Malti Rathore W/o Heera Lal Rathore, Aged About 38 Years R/o Bazar Chouk Ke Pass, Thana Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Champa, District Janjgir Champa Chhattisgarh.

---- Respondent

For the Applicant : Shri Vikash Pandey, Advocate.
 For the Respondent/State : Shri D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****20.07.2020**

Heard.

1. Learned counsel for the applicants seeks permission to withdraw the application of applicant No.2 – Smt. Malti Rathore.
2. Accordingly, application of applicant No.2 – Smt. Malti Rathore is dismissed as withdrawn.
3. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant No.1 who has been arrested in connection with Crime No.426 of 2019, registered at Police Station – Champa, District – Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 376 and 376D read with Section 34 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual

Offences Act, 2012.

2. Learned counsel for the applicants submits that applicant No.1 is in jail since 18.12.2019 and has been falsely implicated in this case. No case is made out against applicant No.1 on the basis of the material placed before the Court by the prosecution. It is submitted that the name of applicant No.1 has not been reflected in the statement of the victim under Section 164 of the Cr.P.C. as well as in her statement before the Court in the trial. Hence, it is prayed that applicant No.1 be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that according to the material present, applicant No.1 has also participated in the commission of offence. Hence, no case is made out for grant of bail to applicant No.1.

4. Notice served upon the complainant/ informant has been returned served but there is no representation on his behalf.

5. Heard counsel for both the parties and perused the case diary.

6. As per the prosecution case, the minor prosecutrix aged about 10 years was called by applicant No.2 – Smt. Malti Rathore, who then disrobed her and presented before co-accused – Khemlal, who forcibly raped the minor prosecutrix. According to the statement of the witnesses, this applicant was present in the premises of the place where this offence was committed.

7. Considered the facts of the case and also the statement of the prosecutrix under Section 164 of the Cr.P.C. which does not mention the name of the applicant. Apart from that, there is no other statement against applicant No.1, therefore, I am of the considered view that this is a fit case for grant of regular bail to applicant No.1.

8. Accordingly, the bail application filed by applicant No.1 – Heera Lal Rathore under Section 439 of the Cr.P.C. is allowed.

9. It is directed that applicant No.1 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 trial Court, for his appearance as and when directed. In case any default is committed by applicant No.1 in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge