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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1120 of 2020

1. Chhabilal Kaiwartya, S/o, Purushottam Kaiwartya, aged about 23 years, R/o. Sakrapali, P.S. Sarsiwa, District Baoda Bazar Bhatapara Chhattisgarh.
2. Anil Khute, S/o. Lalji Khute, aged about 19 years, Resident Of Madhubankhurd, P.S. Sarsiwa, District Baloda Bazar Bhatapara Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarsiwa, District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondent

M.CR.C. No. 1345 of 2020

1. Jitendra Manikpuri, S/o. Chaitudas Manikpuri, aged about 24 years, R/o. Village Bendua
2. Pradeep Kumar Ajay, S/o. Late Malikram, aged about 29 years, R/o. Village Pipardula

Both are Police Station Sarsiwa, Balodabazar, District Balodabazar Bhatapara Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarsiwa, District Balodabazar Bhatapara Chhattisgarh.

---- Respondent

M.CR.C. No. 1620 of 2020

1. Nageshwar Patel, S/o. Mahesh Ram, aged about 25 years,
2. Nand Lal Yadav, S/o. Ghasiya, aged about 28 years,

Both are R/o. Village Dhobani, P.S. Sarsiwa, District Baloda Bazar Bhatapara, C.G.

---- Applicants

Versus

State Of Chhattisgarh, Through- Station House Officer, Police Station
Sarsiwa, District Baloda Bazar Bhatapara, C.G.

---- Respondent

AND**M.CR.C. No. 1674 of 2020**

Anil Khunte, S/o. Shri Lalji Khunte, aged about 19 years, R/o. Village
Madhubankhurd, Thana : Sarsinwa, Civil and Revenue District
Balodabajar – Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station
Sarsiwa, District Balodabazar Bhatapara Chhattisgarh.

---- Respondent

For Applicants : Mr. C.R. Sahu, Advocate
(In M.Cr.C. No.1120 of 2020)

For Applicants : Mr. Dharmesh Shrivastava, Advocate
(In M.Cr.C. No.1345 of 2020)

For Applicants : Mr. Santosh Sahu, Advocate
(In M.Cr.C. No.1620 of 2020)

For Applicant : Mr. Sunil Sahu, Advocate
(In M.Cr.C. No.1674 of 2020)

For Respondent/State : Mr. Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/06/2020

1. All the above bail applications are heard and decided together by

this common order as they are arising out of the same crime

number and incident.

2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.404/2019, registered at Police Station – Sarsiwa, District – Baloda Bazar – Bhatapara (C.G.) for the offence punishable under Section 363, 366, 376-D of the Indian Penal Code and Section 4 & 6 of POCSO Act, 2012.
3. It is submitted by the learned counsel for the applicant No.1 - Chhabilal (in M.Cr.C. No.1120/2020) that the applicant has been falsely implicated in this case. It is further submitted that there is no allegation by the prosecutrix or complainant against this applicant regarding commission of offence. Hence, it is prayed that the applicant No.1 – Chhabilal may be enlarged on regular bail.
4. On behalf of the applicant No.2 Anil Khute (in M.Cr.C.No. 1120/2020), it is submitted that his application is separately filed, which is registered as M.Cr.C. No.1674 of 2020, therefore, the counsel does not want to press on the prayer made by the applicant No.2.

5. It is submitted by the learned counsel for the applicants (in M.Cr.C. No.1345/2020) that they have been falsely implicated in this case. The FIR in this case is delayed and also the prosecutrix and other witness have made improvement in their statement. It is further submitted that charges have been framed in this case and there is no charge framed against the applicant No.1 – Jitendra Manikpuri (in M.Cr.C. No.1345/2020) for commission of offence of rape. Hence, it is prayed that the applicants may be enlarged on regular bail.
6. It is submitted by the learned counsels for the applicants (in M.Cr.C. No.1620 & 1674 of 2020) that these applicants have been falsely implicated in this case. The version of the prosecutrix in the statement under Section 161 of Cr.P.C. was different. Thereafter, some demand was made from these applicants, which was not met with. Therefore, the prosecutrix has improved her statement to falsely implicate these applicants. The allegations made is improbable as the medical examination report of the prosecutrix does not support the allegation. Therefore, the case against these applicants is concocted. Hence, it is prayed that the applicants may be enlarged on regular bail.

7. On the other hand, learned counsel for the State opposes the bail application and submits that the minor victim of this case is of age below 16 years. She has given different statement making allegation against these applicants, which is to be examined in trial. Therefore, none of the applicants are entitled for grant of bail.
8. The complainant/victim is present along with the minor prosecutrix before this Virtual Court, through help desk of the High Court. She has made statement that he has no objection in grant of bail to the applicant – Chhabilal and Nandlal, whereas she opposes the grant of bail to the other accused persons.
9. I have heard the learned counsel for both the parties and perused the case diary.
10. According to the prosecution case, the complainant Kunjram Miri has lodged FIR on 05.12.2019 that his minor daughter aged about 15 years has gone missing from 02.12.2019. Offence under Section 363 of Indian Penal Code was registered. The minor victim was recovered on 07.12.2019 by the police. The date of birth of the minor victim is 08.05.2005. The prosecutrix has given statement to the police and then has also given

statement under Section 164 of Cr.P.C. to the Judicial Magistrate First Class in which she has alleged that Dayaram Ratre took her and her friend to his house, where she was raped by Nageshwar, Nandlal, Chhabilal, Dayaram and Pradeep. Thereafter, she continued to stay in the house of Dayaram, where she was raped by Anil on the next day. She was taken to New Delhi, where she was again raped by applicant – Anil.

11. Considered on the submission made by the counsel for both the sides. Although the complainant has made no objection for applicant- Chhabilal and Nandlal in M.Cr.C. No. 1120/2020 and M.Cr.C. No.1620/2020, but their names are reflected in the statement given by the prosecutrix under Section 164 of Cr.P.C.. The only name not mentioned by the prosecutrix is of applicant No.1– Jitendra Manikpuri (in M.Cr.C. No.1345/2020). This is a case of gang rape and also abduction. Hence, after considering the facts and circumstances of the case and the evidence present on record, this Court is not inclined to grant bail to the applicants (in M.Cr.C.No.1120/2020, M.Cr.C. No.1620/2020, M.Cr.C. No.1674/2020 and the applicant No.2 in M.Cr.C. No. 1345/2020)). However, as there is no allegation made by the prosecutrix against the applicant No.1 Jitendra Manikpuri (in

M.Cr.C. No.1345/2020), hence I am inclined to grant bail to the applicant No.1– Jintendra Manikpuri (in M.Cr.C. No.1345/2020)

12. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. bearing M.Cr.C. No.1120/2020, M.Cr.C. No.1620/2020, M.Cr.C. No.1674/2020 and in respect of the applicant No.2 in M.Cr.C. No.1345/2020) are rejected and the bail application of the applicant No.1 - Jintendra Manikpuri (in M.Cr.C. No.1345/2020) is allowed.

13. It is directed that applicant No.1 – Jintendra Manikpuri (in M.Cr.C. No.1345/2020) 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram