

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1565 of 2020

- Subham Sahu S/o Shri Ram Sahu, Aged About 22 Years, R/o ACC Chowk, Infront of Daru Bhatti, Jamul, Police Station Jamul, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Jamul, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

MCRC No. 2050 of 2020

- Dilip Thapa S/o Raju Thapa, Aged About 29 Years, R/o A.C.C. Chowk, Infront of Daru Bhatthi, Jamul, Police Station Jamul, Tahsil and District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Jamul, District Durg Chhattisgarh, District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Pushpendra Kumar Patel, Advocate (in MCRC No.1565/2020),
Shri Praveen K. Dhurandhar, Advocate (in MCRC No.2050/2020).

For Non-applicant/State – Shri V.R. Tiwari, Additional A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-06-2020

1. As both these applications arise out of the same crime number, i.e., Crime No.626/2019, registered at Police Station Jamul, District Durg Chhattisgarh for the same incident, they are being decided by this common order.
2. MCRC No.1565/2020 has been filed by applicant Subham Sahu and MCRC No.2050/2020 has been filed by applicant Dilip Thapa under Section 439 of the Cr.P.C. These are first bail applications before this Court filed by these applicants for grant of regular bail. The applicants have been arrested on 14-11-2019 in connection with aforesaid crime number. Applicant Subham Sahu (applicant in MCRC No.1565/2020) has been arrested for offence under

Section 450, 377, 506B, 120B and 195 A of the IPC and under Section 13, 14(2) of Protection of Children from Sexual Offences Act and under Section 67(B)(E) & under Section 67(C) of Information Technology Act, 2000. Applicant Dilip Thapa (applicant in MCRC No.2050/2020) has been arrested for offence under Section 450, 377, 506-B, 120-B and 195-A/34 of the IPC and Section 6, 13 & 14(2) of Protection of Children from Sexual Offences Act and Section 67-C & 67-B(E) of Information Technology Act.

2. On behalf of applicant Subham Sahu in MCRC No.1565/2020 it is submitted by learned counsel for this applicant that he has been falsely implicated in this case. There is no material to show the involvement of this applicant in said commission of crimes which are registered against him. Although mobile of this applicant has been seized in the investigation, but no obscene video has been seized from his possession. The allegations made against him are baseless. He is in jail since 14-11-2019. Therefore, it is prayed that he may be granted bail.

3. On behalf of applicant Dilip Thapa in MCRC No.2050/2020 it is submitted that this applicant has been falsely implicated in this case. False FIR has been lodged because of the previous enmity. The videography that has been seized has been sent for forensic examination, but no report has been received till date. Therefore, there is no confirmation that this applicant was the person who has committed alleged offence. Also, there is delay in lodging the FIR of about three months. He is in jail since 14-11-2019. Therefore, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the applications and submits that the allegation against these applicants is of grave nature. The crime has been committed with a design to influence the complainant and obtain a favourable statement before the Court in a pending criminal case regarding which the witnesses have given statement. The video has been

seized and the report of forensic expert is awaited. Therefore, the applicants are not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the documents.

5. According to the prosecution case, one Sanjay Sahu is being prosecuted for commission of offence of unnatural intercourse with the victim of that case. Applicant Subham Sahu is brother of that accused Sanjay Sahu who along with his friend applicant Dilip Thapa was consistently pressurizing the complainant to withdraw the case against Sanjay Sahu. It is stated in the FIR that on 03-08-2019 the victim was by allurement taken to the premises of applicant Dilip Thapa, where applicant Subham Sahu was present. The minor victim was threatened on the point of knife and then he was also compelled to do masturbation by applicant Dilip Thapa. Subsequent to that, applicant Dilip Thapa committed act of unnatural sexual intercourse with the victim. It is alleged that applicant Subham Sahu was present throughout and he prepared the video recording of the act. The complainant was shown obscene video on 14-11-2019 with intention to influence him to enter into a compromise with Sanjay Sahu, brother of applicant Subham Sahu. Therefore, the FIR has been lodged.

6. Considered on the submissions and also on all the material present. The allegations against the applicants are of serious nature and are supported with the statement of the witnesses. In this case, not only the crime has been committed but it has been committed with intention to influence and suppress the evidence to be given by witnesses in another criminal case. Therefore, it is a crime committed after due deliberation and with a design, hence, it can be regarded as a crime of grave nature. Therefore, I do not feel inclined to grant bail to any of these applicants.

7. Consequently, both these applications filed by the applicants under

Section 439 of the Cr.P.C. for grant of regular bail are hereby rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil