

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.2581 of 2020

- Amit Rajak S/o Bisali Rajak Aged About 18 Years 11 Months, R/o Chhitapar, Police Station And District Bemetara, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate Bemetara, District-Bemetara, Chhattisgarh

---- Respondent

M.Cr.C. No.2815 of 2020

- Tekram Rajak S/o Lt. Shri Choturam Rajak Aged About 31 Years R/o Village Chhitapar, Police Station City Kotwali, Bemetara, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station City Kotwali, Bemetara, District Bemetara

---- Respondent

For Applicants (In M.Cr.C.No.2581/2020) : Mr. Sudhir Verma, Advocate.

For Applicant (in M.Cr.C. No.2815/2020) : Mr. Anil S. Pandey, Advocate.

For Non-applicant/State : Mr. D.P. Singh, Dy.A.G.

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

17-07-2020

Heard.

1. As both these applications arise out of the same crime numbers i.e. Crime No.771/2019, registered at P.S. City Kotwali, Bemetara, District-Bilaspur (C.G.), they are being decided by this common order.
2. In M.Cr.C. No.2581/2020, applicant has been arrested for offence under Section 376(D)(A) of the Indian Penal Code and Sections 4 and 12 of the POCSO Act.

3. In M.Cr.C. No.2815 of 2020, the applicant has been arrested for offence under Section 376(A) of I.P.C. and Sections 3 and 4 of POCSO Act.
4. It is submitted by learned counsel for applicants that applicants in both the cases have been falsely implicated in this case. The story in the F.I.R. is totally false. The circumstances mentioned itself show that the allegation against the applicants are not made out. It is mentioned in the F.I.R. that the incident has occurred in place where building was under construction, therefore, due to rough surface, the prosecutrix herself ought to have suffered injuries on her body, whereas no such injuries has been found in the M.L.C. report. Similarly, it was a day of public function on account of Guru Ghasidas Jayanti and the place of incident was also near the road. Therefore, the story of the prosecution is totally improbable. Hence, it is prayed that both the applicants be granted bail.
5. Learned counsel for the State/non-applicant opposes the application and submits that there is clear and categorical statement given by minor prosecutrix under Section 161 of Cr.P.C. to the police and under Section 164 of Cr.P.C. to the Magistrate making clear allegation against these applicants. The Medicolegal Certificate is also positive which shows that forceful sexual intercourse has taken place. Therefore, the applicants in both the cases are not entitled for grant of bail.
6. Heard learned counsel for the parties and perused the case diary.
7. According to the prosecution case, on the date of incident when the prosecutrix left the place of function for her home and on finding the house locked and she was returning then, the applicants found her and forcefully took her to a lonely place where a building was under construction and one by one both of them raped her.

8. Considering the facts of the case that are present and the statement of prosecutrix that has been given against the applicants, I do not feel inclined to allow this application.
9. Consequently, these applications filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
10. Certified copy as per rules.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge