

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2599 of 2020

1. Praveen Kumar Shrivastava, S/o Late Premnarayan Shrivastava, Aged About 25 Years, R/o Village Kolihamar, Ward No.14, Police-Station-Gurur, District-Balod, Chhattisgarh.
2. Umesh Kumar Thakur, S/o Ram Bhagwan Thakur, Aged About 28 Years, R/o Village Kolihamar, Ward No.12, Police-Station-Gurur, District-Balod, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through S.H.O. Gurur, District-Balod, Chhattisgarh.

---- Respondent

For Applicant	: Mr. B.P. Singh, Advocate.
For State/respondent	: Mr. Anand Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/07/2020

1. This is first bail application on behalf of the applicants under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to them as they are in custody in connection with Crime No.61/2020 registered at Police Station Gurur, District Balod (C.G.) for the offence punishable under Sections 363, 109, 376D, 342/34 of IPC and Sections 4, 5(g), 6 & 17 of POCSO Act.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. The applicants are

in jail since 3.3.2020. Names of these applicants do not find place in FIR; statement of the prosecutrix recorded under Section 161 CrPC and also in her statement recorded before the Child Welfare Committee. Name of these applicants appeared in the subsequent development during investigation, which is not reliable, therefore, it is prayed that they may be enlarged on regular 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 although the prosecutrix has not mentioned the names of these applicants in her statement but she has duly identified both these applicants in the Test Identification Parade (TIP) conducted, therefore, no case is made out for grant of bail to these applicants.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, the minor prosecutrix was in the company of co-accused Dipika Gond when she was sexually exploited by some persons. FIR has been lodged by the father of the victim, who has not named any person. However, in first statement that was given by the minor prosecutrix under Section 161 CrPC on 15.2.2020, she named Ajay and Kishan as the persons who raped her. She again made statement before the Child Welfare Committee on 17.2.2020 and there she named Yogesh and Kishan as the persons who raped her. In her statement under Section 164 CrPC, she again named Ajay and Kishan as the persons who raped her. The names of these applicants appeared in her statement recorded under Section 161 CrPC mentioning that one boy resident of Village Kolihamar situated under

Police Station Gurur has threatened her for dire consequences if she would ever disclose the incident to anyone.

6. Considered on the materials that are present against these applicants, I feel inclined to allow their application for grant of regular bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/-each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha