

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2753 of 2020

Khilendra Sahu, S/o. Shri Biken Sahu, Aged About 19 Years, R/o. Village Pipartola Bade, Police Station Singhanpuri, Jangal, Tahsil Sahaspur Lohara, District Kabirdham Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through - The Station House Officer, Police Station Kawardha, District Kabirdham Chhattisgarh.

---- Respondent

AND

M.CR.C. No. 3627 of 2020

Kamlesh Sahu, S/o. Gajelal Sahu, Aged About 30 Years, R/o. Village Nachaniya, Police Station Salhewara, Tehsil Chhuikhadan, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through – District Magistrate, District – Kabirdham (C.G.)

---- Respondent

For Applicant : Mr. Basant Dewangan, Advocate
(In M.Cr.C. No.2753 of 2020)

For Applicant : Mr. Govind Ram Miri, Advocate
(In M.Cr.C. No.3627 of 2020)

For Respondent/State : Mr. Siddhartha Dubey, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

22/06/2020

- Both the above bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.

2. These are the third 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.329/2019, registered at Police Station – Kawardha, District – Kabirdham (C.G.) for the offence punishable under Section 376, 506, 120-B and 34 of the Indian Penal Code. The first bail application of the applicants were dismissed as withdrawn vide order dated 03.09.2019 with liberty to revive the same after examination of the prosecutrix and the second bail application of the applicants were dismissed as withdrawn vide order dated 23.03.2020 with liberty to repeat the same after sometime.
3. It is submitted by the learned counsels for the applicants that the applicants have been falsely implicated in this case. The applicants are in jail since 03.09.2019. No case is made out against the applicants according to the evidence present on record. The applicant Khilendra Sahu was married to the prosecutrix but this marriage was dissolved in customary manner subsequent to which the prosecutrix has married with the co-accused Kamlesh Sahu and it was on this basis that the co-accused has cohabited and had made physical relation with the prosecutrix. The prosecutrix has been examined before the trial Court and her deposition shows that she is not a reliable witness. The case against both the applicants is concocted. Kamlesh Sahu is present husband of the prosecutrix, who has right to have physical relation with

the prosecutrix. Hence, it is prayed that the applicants may be enlarged on regular bail.

4. On the other hand, learned counsel for the State opposes the bail application. It is submitted that the case against the applicants is of very serious nature in which both the applicants conspired and then prosecutrix was exploited sexually by the applicant Kamlesh Sahu upon the abement given by her husband i.e. applicant Khilendra Sahu. It is an offence against morality as well as other recognized values of the society, therefore, the applicants are not entitled for grant of bail.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, it is alleged that the prosecutrix is married to applicant- Khilendra Sahu. The prosecutrix was taken by the applicant to Kawardha on the pretext that her Aadhar Card has to be prepared and thereafter, the applicant Khilendra Sahu quarreled with the proecutrix alleging that she has relation with other applicant Kamlesh Sahu. Subsequent to which, both the applicants by putting pressure on the prosecutrix and also by threatening her obtained signatures on documents prepared. It is further alleged that both the applicants took the prosecutrix to one Laxmi lodge for stay and after taking a room, applicant Khilendra made some pretext and left the prosecutrix with the co-accused Kamlesh Sahu alone and then

applicant Kamlesh Sahu ravished and raped the prosecutrix for the whole night. Subsequent to this incident, the applicant Khilendra Sahu left the prosecutrix in her maternal home.

7. After considering the facts and circumstances of the case and also considering the statement that has been given by the prosecutrix against both the applicants, this Court is of the opinion that present is not a fit case, in which, the applicants should be enlarged on regular bail.
8. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge