

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4357 of 2020

- Nitesh Kumar Sahu S/o Shri Samliya Sahu, Aged About 24 Years, R/o Village- Bamhni, Mahasamund, P.S. Mahasamund, Tahsil and District- Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Arakshi Kendra Mahasamund, District- Mahasamund, Chhattisgarh

----Non-applicant

and

MCRC No. 4361 of 2020

- Bindal Singh Patti Bindal Singh Patti, Aged About 28 Years, R/o Ganjpara Mahasamund, P.S. Mahasamund, Tahsil and District- Mahasamund, (C.G.), District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Arakshi Kendra Mahasamund, District- Mahasamund, (C.G.), District : Mahasamund, Chhattisgarh

----Non-applicant

For Applicants – Shri Prateek Sharma, Advocate.

For Non-applicant/State – Shri Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-08-2020

1. As both these applications arise out of the same crime number, i.e., Crime No.118/2020 registered at Police Station - Arakshi Kendra Mahasamund, District- Mahasamund Chhattisgarh for offence under Section 363, 376, 506/34 of the IPC & Section 4 & 6 of POCSO Act, 2012 and under Section 3(2)(V) of SC/ST Act, they are being disposed off by this common order.

2. Both these applications filed under Section 439 of the Cr.P.C. by the applicants for grant of regular bail. These are first bail applications filed by the applicants before this Court. The applicants are in jail since 07-03-2020 in connection with aforesaid crime number and offence.

3. It is submitted on behalf of the applicants in both the cases that the applicants are innocent and they have been falsely implicated in this case. The prosecution has come up with a totally improbable story. The prosecutrix in this case has made developments in her statement, therefore, she is not believable. The age of the prosecutrix had been about 17 ½ years according to the prosecution case, which is intended to be disputed by the applicants in trial to show that the incident had been based on consent. It is also submitted that applicant Bindal Singh Patti (applicant in MCRC 4361 of 2020) is HIV positive, therefore, he has medical requirement, hence, on this ground it is prayed that the applicants in both the cases be granted bail.

4. Learned counsel for the State/non-applicant opposes the applications and submits that the prosecutrix was minor on the date of incident and further she was sexually exploited by the applicants by putting her under threat that the obscene video recording of herself and her sister will be made viral in case she does not submit to the wishes of the applicants. Therefore, the allegation against the applicants are of very serious nature, hence, they are not entitled for grant of bail.

5. Notice issued to the complainant has returned served, but there is no appearance and no representation on their behalf.

6. Heard learned counsel for the parties and perused the case diary.

7. The minor prosecutrix has lodged the FIR that applicant Bindal Singh Patti (applicant in MCRC 4361 of 2020) met with her in the month of August, 2019 and informed her that he has in his possession one obscene video of younger sister of the prosecutrix. Then after putting the prosecutrix under threat of making that video viral he forced her to submit for physical relation and this physical relation took place about 8 times. Applicant Bindal Singh Patti again by putting the prosecutrix under threat of making the video viral sent the prosecutrix to submit to other applicant Nitesh Kumar Sahu (applicant in

MCRC No.4357 of 2020) who established physical relation with the prosecutrix about 5 times. The prosecutrix had to submit on each occasion because of the threat given to her by applicant Bindal Singh Patti.

8. The statement given by the prosecutrix is very clear and categorical against both these applicants. It is not a case of love affair and the statement given by the prosecutrix shows presence of threat perception all the time. Therefore, I am of this view that this is not a fit case where the applicants should be granted bail.

9. Accordingly, both these applications filed by the applicants for grant of regular bail are rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge