

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6493 of 2020

1. Neeraj Singh Agariya S/o Sonsai Agariya, Aged About 19 Years R/o Village - Saragtola, Police Station - Ramnagar, District - Anuppur (M.P.)
2. Devan Singh Agariya @ Guddu S/o Besahan @ Beyala, Aged About 20 Years R/o Lapta, Jaithari, District - Anuppur (M.P.)

---- Applicants

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Passan, District - Korba Chhattisgarh

---- Non-applicant

For Applicant : Mr. S.R.J. Jaiswal, Advocate.

For Non-applicant/State : Mr. Vimlesh Bajpeyee, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-10-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicants have been arrested on 01.10.2019 in connection with Crime No.97/2019, registered at Police Station- Passan, District- Korba, C.G. for offence punishable under Sections 363, 366(A), 376(2)(n)/34 of I.P.C. and Section 6 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 applicant No.1 and the prosecutrix had an affair between them. As this was disclosed, this false F.I.R. has been lodged. The prosecutrix is not minor and this will be proved by applicants' side in the trial. The applicant No.2 has played no role in the said commission of offence of rape. The applicants are in jail since 01.10.2019, therefore, it is prayed that this application may be allowed.
3. Learned counsel for the State/non-applicant opposes the application and submits that it is a case of gang rape and the statement of the

prosecutrix under Section 161 of Cr.P.C. very clearly implicates the applicants in the commission of crime, therefore, this application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that the applicant No.1 abducted the minor prosecutrix with the help of applicant No.2 and one another co-accused person. The prosecutrix was taken to the house of the sister of the applicant No.1, where it is alleged that applicant No.1 ravished the prosecutrix sexually thrice. Hence, this case.
6. Considered on the submissions from the evidence present, it does not appear that the applicant No.2 had been continuously present after dropping the prosecutrix and the applicant No.1 in the house, therefore, the case of the applicant No.2 appears to be different as compared to the case of applicant No.1. Therefore, I am of this view that the applicant No.1 does not deserve to be granted bail, however, I feel inclined to grant bail to the applicant No.2.
7. Consequently, the prayer made by the applicant No.1 in this application filed under Section 439 of the Cr.P.C. for grant of regular bail is rejected and the prayer made by the applicant No.2 in this application for grant of regular bail filed under Section 439 of Cr.P.C. is hereby allowed. It is directed that the applicant No.2 (Devan Singh Agariya @ Guddu) shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed, on condition as imposed by the concerned Court.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge