

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6746 of 2020**

1. Mahipal Tirki S/o Sunder, Aged About 40 Years R/o Village Mugum, Khairpara, Thana Khadgawa, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Sunder, S/o Vishun, Aged About 80 Years R/o Village Mugum, Khairpara, Thana Khadgawa, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicants**Versus**

The State Of Chhattisgarh Through Police Station Khadgawa, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh.

---- Respondent

For the Applicants : Shri Parag Kotecha, Advocate.
 For the Respondent/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.11.2020**

Heard.

1. This is the first bail application 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.106 of 2020, registered at Police Station – Khadgawa, District – Koriya, Chhattisgarh for the offence punishable under Sections 376, 367, 506 and 109 of the Indian Penal Code and Sections 4, 6, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicants submits that the applicants are in jail since 15.5.2020 and have been falsely implicated in this case. Totally, a

false FIR has been lodged by the prosecutrix. Applicant No.1 – Sunder is an 80-year old man, who is suffering with various physical elements which itself falsify the allegations that have been made by the prosecutrix. Further, the FIR has been lodged belatedly after about passing of more than two years, which shows that the case has been concocted against the applicants. Hence, it is prayed that the applicants be enlarged on 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 the age of the prosecutrix at the time of incident is only about 14 years. She has made clear allegations in her statement under Sections 161 and 164 of the Cr.P.C. On one occasion, the prosecutrix made an attempt to commit suicide by consuming poison. In dying declaration, recorded on that occasion she alleged against the applicants about sexually abusing her. Hence, the applicants are not entitled for grant of regular bail.

4. The prosecutrix/ complainant is present before this virtual Court through the Help-Desk of DLSA, Chirmiri, District Koriya. She made a statement that she has strong objection in grant of bail to the applicants.

5. Heard counsel for both the parties and perused the case diary.

6. As per the prosecution case, the parents of the minor prosecutrix have forced her to go and live with her grandparents. While residing with her grandparents, the minor prosecutrix was raped by her grandfather – applicant No.2 on numerous occasions by putting her under threat and then she has also alleged that applicant No.1 has also on some occasions raped her.

7. Considering the entire material present in the case-diary, I am of this view that this is not a fit case for grant of regular bail to the applicants.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge