

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6809 of 2020

- Vedprakash Chauhan, S/o Fulsaye, Aged About 26 Years Occupation - Labour, R/o Village - Kanakot, Thana - Dabra, District - Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh, Through Police Station - Pusaur District - Raigarh Chhattisgarh.

---- Respondent

&

MCRC No. 7368 of 2020

- Mahendra Chouhan S/o Lalit Chouhan Aged About 22 Years Occupation Laborer, R/o Village Ghivra, Tahsil Dabhara, District (Revenue And Civil) Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Pusour, District (Revenue And Civil) Raigarh Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Sanjay Agrawal, Advocate in MCRC No.6809/2020. Mr. Vineet K. Pandey, Advocate in MCRC No.7368/2020.
For Respondent/State	:	Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/11/2020

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.

2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No. 128/2020 registered at Police Station-Pusaur, District–Raigarh(C.G.) for the offence punishable under Sections 363, 376/34 of the Indian Penal Code (for short 'IPC') and Section 4 & 6 of POCSO Act.
3. Learned counsel on behalf of the applicant in MCRC No.6809/2020 submits that the applicant is innocent and has been falsely implicated in this case. There is no allegation of rape against this applicant made by the prosecutrix. The only thing applicant has done, that he has given lift to the co-accused Mahendra Chouhan and the prosecutrix on his motorcycle. hence, it is prayed that the applicants be granted regular bail.
4. Learned counsel on behalf of the applicant in MCRC No.7368/2020 submits that the applicant is innocent and has been falsely implicated in this case. It is further submitted that the statement of the prosecutrix herself under Section 161 & 164 CrPC reveals that there had been a love affair between her and the applicant since about one year, therefore, their relation was consensual. The prosecutrix was not minor on the date of incident, therefore, the consent given by her is valid,
5. Learned State counsel opposes the application and submissions made in this respect. It is submitted that in the statement under Section 161 & 164 CrPC the prosecutrix has clearly made allegation against both the applicants regarding the commission of offences, therefore, none of the applicant is entitled for grant of regular bail.
6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

7. As per the prosecution case, the applicant Mahendra Chouhan developed relationship with the prosecutrix about one year prior to the lodging of FIR. They kept meeting, talking and having relation with each other. On the date of incident, the prosecutrix was abducted by the applicant Mahendra Chouhan with the help of applicant Vedprakash Chauhan and then by keeping her in his custody the applicant Mahendra Chouhan has exploited her sexually.
8. After considering on the submissions and facts present in the case diary, I am of this view that this is a fit case where the applications filed by the applicants can be allowed.
9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. are allowed. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/-each with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha