

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 26 of 2021**

1. Tarachand S/o Rohit Markhande Aged About 24 Years Occupation Student, R/o Village Tipni, Tahsil Than Khamhariya, District Bemetara (Chhattisgarh)
2. Harishchand S/o Rohit Markhande Aged About 20 Years Occupation Student, R/o Village Tipni, Tahsil Than Khamhariya, District Bemetara (Chhattisgarh) .---- **Applicants**

Versus

- The State of Chhattisgarh Through Station House Officer, Police Station Than Khamhariya, District Bemetara (Chhattisgarh), ---- **Non-applicant**

For Applicants	:	Mr. R.K. Pali, Advocate.
For State	:	Mr. Sudhir Sahu, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****08-02-2021**

1. The applicants have preferred this first bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as they are in jail since 21-11-2020 in connection with Crime No. 174 of 2020 registered at Police Station Than Khamhariya (CG) for the offence punishable under Sections 506, 376 and 109 of IPC.
2. The allegation against the present applicants is that they helped the main accused Komal Markhande to enter into the house of the prosecutrix aged about 19 years, who on the pretext of marriage committed sexual intercourse with prosecutrix and on the basis of report lodged in Police Station, offence was registered against the applicants.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case, there is no allegation against the present applicants regarding commission of offence of rape or they made any obscene video or photographs. He would further submit that present applicants were seen by the prosecutrix, therefore, she named and falsely implicated them, charge sheet has been filed, except present one, no other criminal antecedents have been reported against the present applicants, they are in jail since 21-11-2020 and conclusion of the trial is likely to take some time, therefore they may be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application. However, he submits that the present applicants have no other criminal antecedents.
5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, looking to the age of the prosecutrix who is aged about 19 years having relation with main Komal Markhande prior to the date of incident, general allegation made against the present applicants is that they assisted the prosecutrix to climb down from her house through a ladder to meet with the main accused Komal Markhande, except that no other allegation was made against the present applicants regarding commission of offence of rape, looking to the age of the present applicants who are aged about 20 and 24 years respectively, there is no likelihood of the applicants tampering with the evidence of absconding and applicants have no other criminal antecedents as

admitted by both the parties and that conclusion of trial may take some time, without commenting anything on merits of the case, I am of the opinion that it is a fit case to grant bail to the applicants.

7. Accordingly, the application is allowed and it is directed that the applicants shall be released on bail on each of them executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial Court. They shall appear before the trial Court on each and every date given by the said trial court, till disposal of the trial. The applicants are being granted bail on the following conditions:

- i. they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such fact to the Court,
- ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- iii. they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- iv. they shall not involve themselves in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to this Court.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial court in the event of applicants involving themselves in similar nature of offence.

Sd/-
(Gautam Chourdiya)
Judge

Raju