

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 298 of 2021

1. Hulas Ram Rajwade S/o Chhattarsai Rajwade, Aged About 70 Years, R/o Village Maheshpur, Outpost Latori, Police Station Jainagar Tahsil Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
2. Laxmen W/o Hulas Ram, Aged About 67 Years, R/o Village Maheshpur, Outpost Latori, Police Station Jainagar Tahsil Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
3. Bigan Ram S/o Late Maheshwar Rajwade, Aged About 35 Years, R/o Village Maheshpur, Outpost Latori, Police Station Jainagar, Tahsil Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

----Applicants

Versus

- State Of Chhattisgarh Through: Station House Officer, Outpost Latori, Police of Police Station - Jainagar, District - Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

----Non-applicant

For Applicants – Shri Anil Gulati, Advocate.

For Non-applicant/State –Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-03-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 11-12-2020 in connection with Crime No.301/2020 registered at P.S. - Outpost Latori, Police Station Jainagar, District – Surajpur, Chhattisgarh for the offence under Section 376(2)(f), 323 r/w 34 of the IPC and Section 6 of Protection of Children from Sexual Offences Act and Section 4 and 5 of Chhattisgarh Tonhi Pratadana Nivaran Adhiniyam, 2005.

2. It is submitted on behalf of the applicants that these applicants are innocent and they have been falsely implicated in this case. The first incident occurred on 10-11-2017 and the FIR was lodged on 10-12-2020. It is main accused Shiv Kumar who has sexually exploited the prosecutrix since she was minor. The applicant No.1 is father of Shiv Kumar, applicant No.2 is mother of

Shiv Kumar and applicant No.3 is brother of Shiv Kumar. There is no allegation against these applicants regarding commission of offence of rape. They are in jail 11-12-2020. Therefore, it is prayed that they be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that main accused Shiv Kumar has sexually exploited the minor prosecutrix in the knowledge and connivance of these applicants and also in the same house where these applicants were also residing. Therefore, it is a clear case of abetment and the applicants are not entitled for grant of bail.

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

5. The prosecution is this, that main accused Shiv Kumar proposed to the minor prosecutrix on or before 10-11-2017 that he intends to marry her and then he had physical relation with her. This relationship continued for about more than 1 ½ years. The prosecutrix when demanded for marriage, the main accused Shiv Kumar gave her assurance and also brought the prosecutrix to reside with him in his house along with these applicants who are his family members. The exploitation of the prosecutrix continued, but finally it is alleged that these applicants and the co-accused Shiv Kumar all made allegations on the prosecutrix that she is a sorcerer and practices the witchcraft and turned her out of their house. Subsequent to which, the FIR has been lodged.

6. Considered on the submissions. These applicants are family members of the main accused and there is no allegation of commission of main offence of rape by these applicants. They are in jail since 11-12-2020. Therefore, I feel inclined to allow this application.

7. Consequently, this application filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicants shall be released on bail on each of them 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 their appearance as and when directed.

7. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil