

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1454 of 2021

1. Guddu Prajapati S/o Baburam Prajapati, Aged About 22 Years, R/o Village Sapha, Police Station Chandani, Biarpur, District Surajpur Chhattisgarh
2. Sonu Lal Prajapati S/o Baburam Prajapati, Aged About 19 Years, Caste Prajapati, R/o Village Sapha, Police Station Chandani, Biarpur, District Surajpur Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, (A.JA.K.), Police Station Surajpur District Surajpur Chhattisgarh

---- Non-applicant

For Applicants – Shri Ashok Kumar Shukla, Advocate.

For Non-applicant/State – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-08-2021

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 09-07-2020 in connection with Crime No.08/2019 registered at P.S. - (A.JA.K.), Police Station Surajpur, District Surajpur, Chhattisgarh for the offence under Section 376/34 of the IPC and Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicants, that the applicants have been falsely implicated in this case. The FIR lodged is delayed by 8 days and the allegation in FIR is only against applicant No.1. It is also submitted that the statement of the prosecutrix under Section 164 of the Cr.P.C. mentions name of applicant No.1 only, therefore, there is no case present against applicant No.2. With regard to the case against applicant No.1, it is submitted that the statement of witnesses are contradictory to each other giving different versions

of the incident, therefore, the story of the prosecution against applicant No.1 is full of doubts. Hence, it is prayed that both the applicants may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the age of the prosecutrix in this case was only 12 years and 6 months on the date of incident. The delay in lodging the FIR has been explained by the complainant. The difference in evidence can be examined in the trial, but for the present there are direct allegations against the applicants in the diary statement of the witnesses. Therefore, application of both the applicants may be rejected.

4. The prosecutrix had virtually appeared before this Court on 23-08-2021 and she has strong objection in grant of bail to the applicants.

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

6. According to the prosecution case, on the date of incident the minor prosecutrix had been working in the agricultural field when both the applicants came near her. Applicant No.1 pulled her by her dupatta, because of which she fell down, then applicant No.1 forcibly disrobed her and raped her. Applicant No.2 kept standing and was witnessing the incident.

7. Considered on the submissions. The main allegation of commission of offence of rape is only against applicant No.1. Looking to the age of the prosecutrix and her direct statement against applicant No.1, I do not feel inclined to allow his application. As regards the application of applicant No.2, I am of this view that the nature of the allegation against him is subject to scrutiny of the trial Court, therefore, I feel inclined to grant bail to applicant No.2.

8. Consequently, the prayer made by applicant No.1 for grant of regular bail is rejected. The prayer made by applicant No.2 Sonu Lal Prajapati for grant of regular bail is allowed. It is directed that applicant No.2 Sonu Lal Prajapati

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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil