

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1652 of 2021**

1. Anjali Sharma, daughter of Shyambihari, W/o Munna Khan Aged About 26 Years
2. Uday Sharma, S/o Shyambihari Sharma, Aged About 28 Years

Both R/o Ward No. 03, Ramanujganj, Police Station Ramanujganj, District Balrampur Ramanujganj Chhattisgarh

---- Applicants (In jail)

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Ramanujganj District Balrampur Ramanujganj Chhattisgarh

---- Respondent

For Applicants	: Shri D Kushwaha, Advocate
For Respondent/State	: Shri Shrikant Kaushik, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

08.07.2021

1. Applicants have preferred this application under Section 439 of CrPC for grant of regular bail as they were arrested in connection with Crime No. 194 of 2020 registered at Police Station- Ramanujganj, District- Balrampur, Chhattisgarh for the offences punishable under Sections 366, 376 and 376(f) r/w 34 of IPC.
2. Case of the prosecution, in brief, is that on 12.10.2020 at about 6 pm, present applicants came to the house of complainant on motorcycle and said that they would take her for a ride. Thereafter, they forcefully caught prosecutrix, took her on motorcycle to their house and Applicant-2 committed forceful intercourse with her on the pretext of marriage. In the morning, both the applicants fled away from the house. Incident was reported to concerned Police Station, based upon which the instant crime was registered.
3. Shri D Kushwaha, learned counsel for the applicants submits that absolutely false allegations have been levelled against present applicants by the prosecutrix.

Story narrated in FIR is highly improbable and further referred to the statement recorded under Section 161 of CrPC, wherein prosecutrix stated that applicants came to her house, they asked for food, upon which her mother and Bhabhi served food to applicants, thereafter, they asked her to accompany them to market which she denied. They forcefully took her. They took the prosecutrix to the house of applicant-2, where he committed intercourse on the pretext of marriage. Learned counsel submits that allegation levelled against the present applicants is false which is also evident from the fact that FIR has been lodged after four days of the alleged incident and not immediately, after the return of the prosecutrix to her house. He submits that applicants are in jail since 28.10.2020 and they may be enlarged on bail.

4. Shri Shrikant Kaushik, learned State counsel opposing the submissions of learned counsel for the applicant, submits that prosecutrix was taken by the applicants forcefully, two witnesses namely, Naseemuddin Ansari and Alam Ansari saw the prosecutrix going on motorcycle, sitting in between two applicants and she was trying to get down of the vehicle. He further submits that allegations leveled against the applicants are serious in nature and they are not entitled for benefit under Section 439 of CrPC. He also read over the contents of statement recorded under Section 164 of CrPC to submit that contents of FIR and statement of prosecutrix under Section 164 CrPC are one and the same. However, he does not dispute the statement of prosecutrix read over by learned counsel for the applicants recorded under Section 161 of CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegation, particularly the fact that as per allegation, applicants came to the house of prosecutrix and as per statement recorded under Section 161 of CrPC, applicants took meals which were served by her mother and *Bhabhi* and thereafter, they went away to the market. In FIR, prosecutrix has narrated some other story, than what she has stated in statement under Section 161 of CrPC. Considering the discrepancy in contents of FIR and Statement recorded under Section 161 of CrPC, without commenting anything on merits of the case, I am inclined to enlarge the applicants on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicants shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand)each with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

- a) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicants shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE