

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1714 of 2021

- Chhabilal Kaiwartya S/o Purushottam Kaiwartya, Aged About 23 Years, R/o Gatadih, Police Station-Sarsiwa, District-Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Sarsiwa, District-Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

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MCRC No. 2769 of 2021

- Yogesh Kumar Sahu, S/o Ghanshyam Prasad Sahu, Aged About 27 Years, R/o Village Khamhariya, Police Station-Sarsiwa, Balodabazar District-Balodabazar Bhatapara, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Sarsiwa, Balodabazar, District-Balodabazar Bhatapara, Chhattisgarh

---- Respondent

For Applicants	:	Mr. C.R. Sahu, Advocate in MCRC No.1714/2021. Mr. Pankaj Singh, Advocate in MCRC No. 2769/2021.
For Respondent/State	:	Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/07/2021

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. MCRC No.1714/2021 is the second bail application of the applicant-

Chhabilal Kaiwartya filed under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No.1115 of 2020 vide order dated 30.06.2020 was rejected.

3. MCRC No.2769/2021 is the third bail application of the applicant- Yogesh Kumar Sahu filed under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No.1560 of 2020 vide order dated 30.06.2020 was rejected and his second bail application MCRC No.7311/2020 vide order dated 29.10.2020 was dismissed as withdrawn.
4. These 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. 405/2019 registered at Police Station-Sarsiwa, District-Balodabazar-Bhatapara(C.G.) for the offence punishable under Sections 363, 366, 376D of the Indian Penal Code (for short 'IPC') and Section 4 & 6 of POCSO Act.
5. Learned counsel on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in these cases. It is further submitted that in both the cases that after the examination of the prosecutrix in trial, the circumstances have changed as the prosecutrix has not named the applicants Chhabilal Kaiwartya and Yogesh Kumar Sahu as the persons, who have raped her, hence, it is prayed that applicants be granted regular bail.
6. Learned State counsel opposes the application and submissions made in this respect. It is submitted that the prosecutrix has been consistent in her statement given under Sections 161 & 164 CrPC, therefore, both the applicants are not entitled for grant of regular bail.

7. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
8. Earlier bail applications of these applicants have been decided on merits and dismissed. Subsequent to which, these applications have been filed on the ground of change in circumstances. Certified copy of deposition of minor prosecutrix has been filed. On perusal of the same, it is found that she has although named the other persons regarding the commission of offence of rape, but she has clearly exonerated these applicants and not made any statement against them. Hence, under these circumstances, I feel inclined to allow the bail applications of these applicants.
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 their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha