

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2965 of 2021

1. Vinod Jaiswal S/o Shyamnarayan Jaiswal, Aged About 38 Years, R/o Bade Kalua, P.S. Khadgawan, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Vijendra Kumar Sidar S/o Ramu Sidar, Aged About 21 Years, Caste Binjhiya, R/o Bade Kalua, P.S. Khadgawan, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicants – Shri Rahil Arun Kochar, Advocate.

For Non-applicant/State – Shri Ajay Kumarani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-08-2021

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. However, earlier the applicants have preferred Criminal Appeal No.660 of 2020 before the coordinate Bench of this Court under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act') which was dismissed as withdrawn on 16-02-2021. The applicants have been arrested on 06-07-2020 in connection with Crime No.4/2020 registered at P.S. Ajak Baikunthpur, District Koriya, Chhattisgarh for the offence under Section 363, 376 (2)(n), 323, 506, 34 of the IPC and under Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2)(v), 3(2) (va) of the SC/ST Act.

2. It is submitted on behalf of the applicants that both the applicants have been falsely implicated. There is no allegation of rape against applicant No.2. On the date when the FIR lodged the prosecutrix was major. The FIR is very clearly delayed regarding which there is no explanation. The prosecutrix has

been examined in the trial and looking to the admissions made by her in her deposition, it appears that she is not a reliable witness and her relationship with applicant No.1 was consensual. The friend of the prosecutrix has also been examined and she has made statement of ignorance about the incident. The doctor examining the prosecutrix has also been examined in the trial and her report also does not suggest of any rape with the prosecutrix. Therefore, there is no case present against these applicants. Hence, it is prayed that these applicants may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the first incident had occurred in the year 2015 when the applicant No.1 had raped the minor prosecutrix and he continued exploiting the minor prosecutrix by putting her under threat, applicant No.1 had also threatened the minor prosecutrix for not marrying to any other person. The trial in this case is nearing completion. Therefore, the application of both the applicants be rejected.

4. The prosecutrix has virtually appeared through Help Desk of DLSA Koriya and she has objected to grant of bail to both the applicants.

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

6. According to the prosecution case, in the year 2015 applicant No.1 had allured the minor prosecutrix with false promise to marry her and then he committed offence of rape with her in jungle. Subsequent to which, until year 2019 applicant No.1 had on various occasions raped the minor prosecutrix. The prosecutrix then came to know that applicant No.1 has already married. Subsequent to which, she objected in advance, but even then applicant No.1 by threatening the prosecutrix to defame her exploited her sexually on number of occasions. On 18-08-2019 the prosecutrix was on her way to jungle when she was abducted by applicant No.1 with the help of applicant No.2 and then she was raped by applicant No.1. Hence, this case.

7. Considered on the submissions and the facts present in the case. I am of this view that applicant No.1 is not entitled for grant of bail. However, considering the case against applicant No.2, I feel inclined to grant bail to him.

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