

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 3532 of 2021

1. Suraj, S/o Hooblal Harijan, Aged About 19 Years, R/o Village- Manwari, P.S.- Kelhari, District- Koriya, Chhattisgarh.
2. Shekhar Ravi, S/o Tejlal Harijan, Aged About 19 Years, R/o Manwari, P.S.- Kelhari, District- Koriya, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh, Through- The Police Station- Kelhari, District- Koriya, Chhattisgarh.

---- Non-Applicant

For Applicants	:	Shri Gyan Prakash, Advocate
For Non-Applicant/State	:	Shri Chitendra Singh, Panel Lawyer

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

28.07.2021

- 1) The applicants have preferred this Second Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 23.08.2020 in connection with Crime No. 75/202 registered at Police Station- Kelhari, District- Koriya (C.G.) for the offence punishable under Section 376 (D), 506 of IPC.
- 2) Case of the prosecution, in brief, is that on 22.08.2020 the prosecutrix went for selling of Mushroom at Kelhari Market. Since, the prosecutrix had missed her bus she stayed at her maternal uncle's house at village Manvari. The maternal uncle of the prosecutrix was going ahead of the prosecutrix with her money and at that time near primary school, the applicants caught her and there made forcible sexual intercourse with her.
- 3) Learned counsel for the applicants submit that the applicants have been falsely implicated in the crime in question. Learned

counsel for the applicants further submits that as per Annexure A/3 there is contradictory statement of the victim, the investigating agency has not collected any material evidence against the present applicants, the applicants have no criminal antecedents, there is no likelihood of the applicants tampering with the prosecution evidence or absconding and the applicants are in jail since 23.08.2020 and trial is likely to take some time for its final disposal. Therefore, the applicants be released on bail by this Court.

- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that as per Annexure A/3, the present applicants made forcible physical relation with the prosecutrix near primary school.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicants, statement of the prosecutrix as per Annexure A/3, the manner in which offence has been committed by the applicant and other material available in the case diary, the evidence of the prosecutrix cannot be appreciated at this stage as it is to be done during trial, without commenting anything on merits of the case, I am not inclined to grant bail to the present applicant.
- 6) Accordingly, the bail application filed by the applicant is rejected.

Sd/-
(Gautam Chourdiya)
Judge

Nadim