

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3577 of 2021**

1. Parmeshwar @ Manoj Markam, S/o Suddhu Ram Markam, aged about 24 years.
2. Tikesh @ Tiku Netam, S/o Bharat Lal Netam, aged about 18 years 08 months.

Both R/o Village Koliyari, Police Station Dugali, District Dhamtari (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, Through the Station House Officer, Police of Police Station – Nagari, District Dhamtari (C.G.)

---- Non-applicant

For Applicant	:	Shri Anil Gulati, Advocate.
For Non-applicant/State	:	Shri Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

24.08.2021

1. Heard on the application filed under Section 439 of Cr.P.C. This is the first bail application filed for grant of regular bail. The Applicants have been arrested on 07.02.2021 in connection with Crime No. 17 of 2021 registered at Police Station Nagari, District Dhamtari (C.G.). Charges have been framed against the Applicants in which the Applicant No. 1 has been charged with offences under Sections 363, 366, 376, 506-II of Indian Penal Code and under Sections 4 of the Protection of Children from Sexual Offences Act, 2012. Whereas, the Applicant No. 2 has been charged with offences under Section 363/34, 366/34 and Section 18 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the Applicant that the Applicants have been falsely implicated in this case. There is no allegation of rape against the Applicant No. 2. Although, there is allegation of rape against the Applicant No. 1 in prosecution case. But, the statement of the prosecutrix

under Section 164 of Cr.P.C is contradictory in which there is no allegations of rape. The prosecutrix were examined in the counselling procedure, but in that the prosecutrix in this case and the prosecutrix in the connected case, both have not made any disclosure of an incident. Therefore, there is no case made out against the Applicants. Hence, the Applicants may be granted the bail.

3. The learned counsel for the State opposes the bail application and submits that there is evidence present against the Applicant No. 1 that he has raped the minor victim and that the Applicant No. 2 has acted in furtherance of common intention, in abduction of the minor victim and also abetted the commission of offence of rape. Therefore, the application for bail may be rejected.
4. The complainant / father of the victim was virtually present before this Court on 10.08.2021 through the Help Desk of DLSA, Dhamtari and he is objected to the grant of bail to the Applicants.
5. I have heard the learned counsel for the parties and perused the record.
6. According to the prosecution case, it is alleged that both the Applicants abducted the minor prosecutrix of 18 years. Subsequent to which the Applicant No. 1 forcibly raped her. Hence this case.
7. Considered on these submissions. Taking into consideration, the facts and circumstances of the case and also the fact that the prosecutrix's statement under Section 164 Cr.P.C. is in contradiction to her earlier statement under Section 161 of Cr.P.C., hence, looking to the circumstances present I am inclined to allow this bail application. The application is allowed.

8. Consequently, the application filed by the Applicants under Section 439 of Cr.P.C for grant of regular bail is hereby allowed.
9. It is directed that the Applicants shall be released on bail on 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.

Certified copy as per rules.

Sd/-
(**Rajendra Chandra Singh Samant**)
Judge