

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3294 of 2021**

Ritu @ Pooja Kumeti, D/o. Gayaram, aged about 23 years, R/o. Nayapara, Bhanupratappur, Distt. Uttar Baster Kanker Chhattisgarh.

---- Applicant

Versus

The State of Chhattisgarh, Through : Police Station - Bhanupratappur, Distt. Uttar Bastar Kanker, Chhattisgarh

---- Respondent

AND**M.CR.C. No. 4189 of 2021**

1. Vikash Hirdani, S/o. Late Sunder Hirdani, aged about 38 years, by Caste Sindhi, R/o. Majhapara, Kanker, District Uttar Baster Kanker Chhattisgarh.
2. Manoj Singh, S/o. Ramhit Singh, aged about 29 years, by Caste Kashatriya, R/o. Shriram Nagar, Kanker, District Uttar Baster Kanker Chhattisgarh

---- Applicants

Versus

The State of Chhattisgarh, Through : District Magistrate, Uttar Bastar Kanker (C.G.).

---- Respondent

For Applicants	: Mr. Parag Kotecha, Advocate
For Respondent/State	: Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**09/08/2021**

1. Both the bail applications are heard and decided together by this common order as they are arising out of the same crime number and incident.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime

No.96/2021, registered at Police Station – Bhanupratappur, District – Uttar Bastar Kanker (C.G.) for the offence punishable under Section 376 (D), 506, 120B, 342, 34 of the Indian Penal Code, Section 3 (1) (W), 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 4 & 6 of Protection of Children from Sexual Offences Act, 2012.

3. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. The applicant – Ritu @ Pooja Kumeti is a woman and therefore, she has no connection with the offence of rape committed by the other persons. As regards, the applicants (in M.Cr.C. No. 4189 of 2021), it is submitted that FIR was lodged regarding commission of gang rape of three unknown persons. The test identification parade was conducted on 05.04.2021, subsequent to which on 07.04.2021, prosecutrix gave statement under Section 164 of Cr.P.C., in which she has stated that she does not know the applicant – Vikash Hirdani and Manoj Singh, therefore, the evidence of test identification report itself becomes doubtful. There is no evidence present against both the applicants. It is submitted that there is delay in lodging of FIR. Therefore, it is prayed that the applicants may be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix has very clearly identified the applicants – Vikash and Manoj in the test identification parade conducted and there is very serious allegation against the applicant – Ritu @ Pooja Kumeti, therefore, none of these applicants are entitled for grant of

bail. Therefore, both the applications be rejected.

5. Prosecutrix herself was present before this Court on 28.07.2021 on notice through the Help Desk of District Legal Services Authority, Kanker and objected the grant of bail to these applicants.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. As per the prosecution case, on the date of incident, the prosecutrix came as guest in the house of the applicant- Ritu @ Pooja Kumeti, while she was residing there, three unknown persons came to her room and gang raped her. When the prosecutrix informed about this incident to the applicant – Ritu @ Pooja Kumeti, she was threatened by her. After lodging of FIR, the prosecutrix has identified the applicant Vikash Hirdani and Manoj Singh as the persons, who have raped her.
8. Considered on the submissions and the facts present in the case. As the allegations against these applicants are of very serious in nature, which is supported with evidence, therefore, this Court is of the opinion that present is not a fit case, in which, the applicants should be enlarged on regular bail.
9. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge