

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4290 of 2021**

1. Dharmendra, S/o Doctor Bhatri, Aged About 23 Years, R/o Village Lawar, P. S. Simga, District-Balodabazar-Bhatapara Chhattisgarh
2. Sashi, S/o Chinnu Prasad Bhatri, Aged About 35 Years, R/o Village Lawar, P. S. Simga, District-Balodabazar-Bhatapara, Chhattisgarh

---- Applicants**Versus**

1. State of Chhattisgarh Through P. S. Simga, District-Balodabazar-Bhatapara, Chhattisgarh

---- Respondent

For Applicant	: Mr. A.S. Rajput, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****29/07/2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.62/2021 registered at Police-Station-Simga, District-Balodabazar, Bhatapara(C.G.) for the offence punishable under Sections 376, 34 of IPC and Section 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. They are in jail since 23.02.2021. Charge-sheet has been filed. The statement of prosecutrix under Section 161 CrPC herself shows, that the

prosecutrix married and resided with applicant No.1 with consent of her father and also the community elders. She has stated in her statement itself, that the applicant No.1 started doubting her character and then he called a meeting of caste community, in which, the prosecutrix was asked to reside with the applicant No.2. The prosecutrix then with the consent of the elders of the caste community resided with the applicant No.2 for some time. The false FIR has been lodged. Subsequently on 5.2.2021, after a long delay, therefore, the whole case is concocted and false, hence, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the prosecutrix was firstly raped by applicant No.1, subsequent to which, her father and the community pressurized the prosecutrix to reside with the applicant No.1. The prosecutrix was minor at that time, therefore, her cohabitation with applicant No.1 and physical relation amounts to commission of offence of rape and also because of the continuation of her minority, her cohabitation with the applicant No.2 also amounts to commission of offence of rape, therefore, both the applicants are not entitled for grant of regular bail.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of High Court on notice. She has stated that she has objection in grant of bail to the applicants.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the minor prosecutrix was

raped by applicant No.1. Subsequent to which, father of prosecutrix called a meeting of village elders of the caste community and on their advise, the prosecutrix was married to applicant No.1, then the prosecutrix resided with him for some time. After some time, the applicant No.1 doubted on the character of the minor prosecutrix alleging, that she is having illicit relation with applicant No.2. The meeting of village elders was called again, in which, the village elders advised the prosecutrix to go and reside with applicant No.2. During the cohabitation with both the applicants, the minor prosecutrix was sexually exploited by both of them. Hence, this case.

7. Considered on the submissions and the facts present in the case and looking to the nature of the incident and also that the relation of the applicant No.1 & 2 both has been established with the minor prosecutrix at the instance of her father and also on the advise given by the village elders, therefore, for these reasons, I feel inclined to allow the application of this applicants.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a 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