

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 4989 of 2021

- Avinash Shrivastava S/o Shri Pannalal Shrivastav Aged About 35 Years
R/o Club Para, Ward No. 26, Mahasamund District Mahasamund
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station
Mahasamund District Mahasamund Chhattisgarh

---- Non-applicant

And

M.Cr.C. No. 4998 of 2021

- Yuvraj Nishad S/o Shri Shyamlal Nishad Aged About 32 Years R/o Club
Para, Mahasamund Police Station And District Mahasamund
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station
Mahasamund District Mahasamund Chhattisgarh

---- Respondent

For Applicants : Mr. Vaibhav A. Goverdhan, Advocate.

For Non-applicants/State : Mr. Sameer Oraon, Govt. Advocate.

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

04-08-2021

Heard.

1. As both these applications arise out of the same crime numbers i.e.
Crime No.370/2019, registered at P.S.- Mahasamund, District-
Mahasamund (C.G.) for the offence under Sections 370(क), 372, 373,
376 and 34 of I.P.C. Act and Sections 6 & 17 of POCSO Act, they are
being decided by this common order.
2. The applicant Avinash Shrivastava has filed third bail application for
grant of regular bail. The first bail application in M.Cr.C. No. 8468 of

2019 was dismissed on merits on 24.06.2020. During the pendency of this bail application, M.Cr.C. No.2524/2020 was filed before the Coordinate Bench, which has been dismissed as withdrawn on 11.05.2020 with an observation that the another bail application M.Cr.C. No.8468 of 2019 is pending.

3. It is submitted by learned counsel for the applicants in both the cases that the applicants are in jail since 19.09.2019. The applicants are before this Court praying for bail only on the ground of delay in trial. The trial against both the applicants had made progress and it was at the stage of final arguments. The prosecutrix then moved an application under Section 311 of Cr.P.C. which was dismissed by the trial Court. Subsequent to which, she has filed a Criminal Revision against that order in the High Court, which is registered as Cr.R. No.263 of 2021 and stay order was passed on 07.06.2021 by staying the proceeding in the criminal case. The Criminal Revision has been further adjourned and interim order has been extended, but there is no fixed date for hearing. Because of this, the situation has come up at the stage where the trial against applicants is postponed indefinitely, therefore, it is prayed that these applicants may be granted bail.
4. Learned counsel for the State/non-applicant opposes the application and submits that the bail application of the applicant Avinash Shrivastava has already been decided on merits. Similarly, looking to the allegations present against the applicant Yuvraj Nishad, no case is made out for grant of bail to the applicants. Hence, both the applications may be rejected.
5. The prosecutrix is virtually present before this Court through the Help Desk of D.L.S.A. Mahasamund and she has no objection in grant of bail to the applicants.

6. Heard learned counsel for the parties and perused the case diary.
7. Considered on the submissions of applicant Yuvraj Nishad on merits, there is allegation against him that he visited the minor prosecutrix as customer for having physical relation with her. There is similar allegation against the applicant Avinash Shrivastava and his application has been rejected on merits for the reason that one bail application of one similarly placed co-accused was rejected by the Coordinate Bench of this Court.
8. Considered on the present development of the things and on perusal of the copy of order sheets of the Sessions Trial filed, it is found that the trial in the case was at the stage of final arguments. Subsequent to which, on the basis of the application filed by the prosecutrix, which was rejected by the trial Court, but then the revision petition being admitted by the High Court and the stay order being operative, it is clear that the trial in the case is now prolonged indefinitely. Hence, only for this reason that there is no possibility of completion of trial in near future and the applicants in both the cases are languishing in jail without any fault on their part, therefore, I feel inclined to allow both these applications.
9. Consequently, both these applications filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail are hereby allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.
10. Certified copy as per rules.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge