

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4856 of 2021

- Mohan Nishad S/o Shri Nirmal Nishad, Aged About 32 Years, R/o Village Pachari, Thana Patewa, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

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

---- Non-applicant

MCRC No. 5435 of 2021

1. Salikram Nishad S/o Shri Madanlal Nishad, Aged About 22 Years, R/o Village - Pachari, Thana - Patewa, Tahsil and District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
2. Pardeshi Vishwakarma S/o Shri Uttam Vishwakarma, Aged About 25 Years, R/o Village - Pachari, Thana - Patewa, Tahsil and District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh, through, Station House Officer, Police Station - Patewa, District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicants – Shri Sunil Sahu, Advocate.

For State/Non-applicant – Shri Ajay Kumarani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-08-2021

1. As both these applications arise out of the same crime number, they are being decided by this common order.
2. Both these applications under Section 439 of the Cr.P.C are first bail applications before this Court filed by these applicants for grant of regular bail. These applicants have been arrested on 21-06-2021 in connection with Crime No.40/2020 registered at Police Station – Patewa, District - Mahasamund, Chhattisgarh for the offence under Section 363, 366, 376 (2)(n), 368/34 of the IPC and Section 6 of the POCSO Act, 2012.
3. At the outset, learned counsel for the applicants seeks permission to

withdraw bail application of applicant No.1 Salikram Nishad in MCRC No.5435 of 2021.

4. Accordingly, the application for grant of regular bail filed by applicant No.1 Salikram Nishad in MCRC No.5435 of 2021 is dismissed as withdrawn.

5. It is submitted by learned counsel for applicant Mohan Nishad (applicant in MCRC No.4856 of 2021) and applicant Pardeshi Vishwakarma (applicant No.2 in MCRC No.5435 of 2021) that both these applicants have been falsely implicated. The allegation against applicant Mohan Nishad is only to this extent that he has provided some financial help to main accused Salikram Nishad, whereas, applicant Pardeshi Vishwakarma has provided shelter to the main accused Salikram Nishad and the prosecutrix in his house. Therefore, there is no involvement of both these applicants in the offence committed. Hence, it is prayed that applicants Mohan Nishad and Pardeshi Vishwakarma be granted bail.

6. Learned counsel for the State/non-applicant opposes the applications submitting that looking to the diary statement of witnesses present against both these applicants, they are not entitled for grant of bail.

7. The prosecutrix had virtually appeared before this Court on 29-07-2021 and she had opposed the grant of bail to these applicants.

8. Heard learned counsel for the parties and perused the case diary.

9. According to the prosecution case, main accused Salikram Nishad abducted the minor prosecutrix, kept her in his custody during which he has exploited her sexually knowing well that she was minor and thus incapable of giving consent. The age of the prosecutrix was only 13 years and 4 months. It is alleged that applicant Mohan Nishad used to provide financial help to the main accused and applicant Pardeshi Vishwakarma has provided shelter to the main accused and the prosecutrix.

10. Considered on the submissions and looking to the nature of the

allegation present against applicants Mohan Nishad and Pardeshi Vishwarkarma, I am of this view that both these applicants should be granted bail.

11. Consequently, MCRC No.4856 of 2021 filed by applicant Mohan Nishad and the prayer made by applicant No.2 Pardeshi Vishwakarma in MCRC No.5435 of 2021 for grant of regular bail are hereby allowed. It is directed that applicants Mohan Nishad and Pardeshi Vishwakarma shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

12. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge