

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5139 of 2021**

Bindal Singh Patti, S/o. Bagga Singh Patti, aged about 28 years, R/o. Ganjpara, Mahasamund, Police Station Mahasamund, Tehsil and District Mahasamund (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh, Through : The Arakshi Kendra Mahasamund, District Mahasamund (Chhattisgarh)

---- Respondent

AND**M.CR.C. No. 5163 of 2021**

Nitesh Kumar Sahu, S/o. Samliya Sahu, aged about 24 years, R/o. Village Bamhini, Mahasamund, Police Station Mahasamund, Tehsil and District Mahasamund Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : The Aarakshi Kendra Mahasamund, District Mahasamund Chhattisgarh.

---- Respondent

For Applicants	: Mr. Shubhank Tiwari, Advocate
For Respondent/State	: Mrs. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****17/08/2021**

- 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.
- These are the second 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.118/2020, registered at Police Station – Mahasamund, District – Mahasamund (C.G.) for the offence punishable under Section 363,

376, 506/34 of the Indian Penal Code and Section 4, 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (V) of S.C. & S.T. (Prevention of Atrocities) Act. The first bail applications M.Cr.C. No. 4357 and 4361 of 2020 of the applicants were dismissed on merits vide order dated 11.08.2020.

3. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. It is submitted that circumstances have changed in favour of both these applicants. The prosecutrix has been examined in the trial and she has not supported the prosecution case and on the contrary, she had made statement in favour of these applicants. Hence, 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. It is submitted that there is clear allegation present against these applicants in the statement of the prosecution under Section 161 and 164 of Cr.P.C. Further the previous bail application of the applicants have been decided and rejected on merits, therefore, the present bail applications may also be rejected.
5. The presecutrix is virtually present before this Court on notice through Help Desk of D.L.S.A. Mahasamund. She has stated that she has no objection in grant of bail to the applicants.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. The earlier bail applications have been dismissed on merits, therefore, change in circumstances is the only consideration for the present bail applications.

8. Perused the certified copy of the deposition of the prosecutrix, which has been filed along with the M.Cr.C. No.5163 of 2021 and according to that it is clear that the prosecutrix is a hostile witness and she has not supported the prosecution case against these applicants in any manner. Hence, looking to this development in the trial, this Court is of the opinion that present is 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 allowed.
10. It is directed that 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 trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge