

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5398 of 2021

- Hitesh Sharma, S/o Sushil Sharma, Aged About 22 Years, R/o Ghorani, Police-Station-Mahasamund, District-Mahasamund, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Mahasamund, District-Mahasamund, Chhattisgarh.

---- Respondent

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MCRC No. 5684 of 2021

- Durgeshwari Nishad, D/o Visahat Nishad, Aged About 26 Years, R/o Piparharan, Police Station And Tahsil Arang, District-Raipur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Mahasamund, District - Mahasamund (Chhattisgarh).

---- Respondent

For Applicants	:	Mr. Manoj Kumar Jaiswal, Advocate.
For Respondent/State	:	Mrs. Hamida Siddiqui, Dy. Adv. General.
For Objector	:	Mr. Suresh Kumar Tandon, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/09/2021

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No. 195/2021 registered at Police Station-Mahasamund, District-Mahasamund(C.G.) for the offences punishable under Sections 354, 354(c), 509(B) of the Indian Penal Code (for short 'IPC') and Section 8 of POCSO Act, Section 3(2) (5) of Scheduled Castes and Scheduled Tribes(Prevention of Atrocities)Act, 1989 and Section 67(A) of I.T. Act.
3. Learned counsel on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in this case because of the enmity of the complainant side. Both of them are in jail since 13.6.2021. It is nearly about 3 months they are in jail. Offence had not been committed by the applicants as alleged against them. There is likelihood of delay in trial, hence, it is prayed that the applicants be granted regular bail.
4. Learned State counsel opposes the application and submissions made in this respect. It is submitted that the victim of this case of age about 14 years and she has made clear and categorical statement against both the applicants in her statement under Section 161 & 164 of CrPC, therefore, there is no case present in favor of these applicants for grant of bail, therefore, the application be rejected.
5. The complainant and minor victim both are virtually present before this Court through the 'Help Desk' of DLSA Mahasamund. They have stated that they have strong objection in grant of bail to these

applicants.

6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
7. As per the prosecution case, it is alleged that the applicant Hitesh Sharma had been following and stalking the minor victim aged about 14 years since one year. On some day when the minor victim was taking bath in her courtyard, the applicant Hitesh Sharma secretly made her video on his mobile phone and then on that basis, he used to threaten her and compel her for showing herself nude to which she had agreed. On the date of incident, it is alleged that applicant Hitesh Sharma forcibly entered into the house of the minor victim and then by inappropriately touching her breast he outraged her modesty. Subsequent to that the applicant Durgeshwari Nishad, who is the wife of applicant Hitesh Sharma made obscene video of the victim viral in her group and the same was also sent to the complainant on his mobile phone by the applicant Hitesh Sharma. Hence, this case.
8. Considered on the submissions. The applicant Hitesh Sharma has played main role in stalking, harassing, threatening, outraging the modesty of the victim and then also insulting her and defaming her publicly. He has dared to send the obscene video of the victim to her own father and in this manner he has made fun of the miseries of the victim, therefore, I am of this view that applicant Hitesh Sharma in MCRC No.5398/2021 should not be granted regular bail, hence, his application is rejected.
9. The case against the applicant Durgeshwari Nishad is of limited nature, who has participated in the endeavor of her husband applicant Hitesh Sharma. Further, she is a woman, hence, for these reasons, I feel inclined to allow the bail application of applicant Durgeshwari

Nishad in MCRC No.5684/2021.

10. Accordingly, the bail application filed by applicant Durgeshwari Nishad in MCRC No.5684/2021 under Section 439 of the Cr.P.C. is allowed. It is directed that applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha