

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5565 of 2021

- Girish Kumar Sahu @ Sonu, S/o Mr. Panch Ram Sahu, Aged About 27 Years, R/o Sankaracharya, Near Hanuman Mandir, H.No.94, Janta Colony, Gudhiyari, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through the Police Station Gudiyari, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

MCRC No. 5728 of 2021

- Upendra Gupta, S/o Late Shri Arun Gupta, Aged About 26 Years, R/o House No.587, Kumhare Chowk, Janta Colony, Gudhiyari, Police Station Gudhiyari, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - S.H.O., Police Station Gudhiyari, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Sharad Prakash Yadav, Advocate in MCRC No.5565 of 2021.

Shri Ravindra Sharma, Advocate in MCRC No.5728 of 2021.

For State/Non-applicant – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-09-2021

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 have been filed by the applicants for grant of regular bail.

Second bail application MCRC No. 5565 of 2021 has been filed by applicant Girish Kumar Sahu @ Sonu as he has been arrested on 24-11-2020 in connection with Crime No.222/2020 registered at Police Station – Gudiyari, Raipur, District – Raipur, Chhattisgarh for the offence under Section 365, 376 DA, 506 of the IPC and Section 4, 6 of POCSO Act. His first bail application, MCRC No.515 of 2021 was dismissed on merits on 26-02-2021.

MCRC No. 5728 of 2021 has been filed by applicant Upendra Gupta as he has been arrested on 07-12-2020 in connection with Crime No.222/2020 registered at Police Station – Gudiyari, District – Raipur, Chhattisgarh for the offence under Section 365, 376-D, A & 506 of the IPC and Section 4 and 6 of POCSO Act.

3. Learned counsel for applicants submit that MCRC No.5728 of 2021 is first bail application filed before this Court by applicant Upendra Gupta. MCRC No.5565 of 2021 is second bail application filed before this Court by applicant Girish Kumar Sahu @ Sonu, his earlier bail application, MCRC No.515 of 2021 was dismissed on merits on 26-02-2021.

It is submitted by learned counsel for applicant Girish Kumar Sahu @ Sonu, that the circumstances have changed after examination of the prosecutrix.

Learned counsel for the applicants submit that these applicants have been falsely implicated in this case. The allegation against these applicants is totally false and baseless. The prosecutrix has been examined in the trial and she has not made a single statement against these applicants, for which she was declared hostile by the prosecutor. Therefore, there is no case present against both these applicants. Hence, it is prayed that both the applications may be allowed.

4. Learned counsel for the State/non-applicant opposes the applications submitting that there is diary statement present regarding participation of these applicants in the offences committed, therefore, they are not entitled for grant of bail.

5. The prosecutrix had virtually appeared before this Court on 02-09-2021 and made statement of no objection in grant of bail to the applicants in both these applications.

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

7. According to the prosecution case, the minor prosecutrix was abducted by co-accused Himanshu and his two friends and all of them gang raped her. After lodging of the FIR the prosecutrix identified these applicants as the persons who had gang raped her.

8. Considered on the submissions and perused certified copy of the depositions of the prosecutrix and her father, they have not supported the case of prosecution against these applicants. Hence, looking to these developments, 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 these applicants 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge