

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6423 of 2021**

- Madan Kumar Chouhan S/o Ishwar Chouhan Aged About 21 Years R/o - Village Raikera, Police Station - Gharghoda District - Raigarh Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Officer - In - Charge Police Station - Gharghoda. District - Raigarh Chhattisgarh

---- Respondent**AND****MCRC No. 6797 of 2021**

- Phool Prakash Ekka S/o Sodhrai Ekka, Aged About 26 Years R/o Village Raikera, P.S. Gharghoda, District Raigarh Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Officer-In-Charge Police Station Gharghoda, District Raigarh Chhattisgarh

---- Respondent

 For Applicants : Shri Ishan Verma, Advocate
 For Respondent/State : Ku. Akshara Amit, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****24.11.2021.**

1. Since both the above mentioned applications are arising out of same crime number, both are being heard and disposed of by a common order.

2. These are first bail applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested on 02.8.2021 in connection with Crime No.233/2021 registered at Police Station Gharghoda, Raigarh (C.G.), for the offence punishable under Sections 376, 506, 34, 366 & 120B of the Indian Penal Code, 1860 (for short 'IPC').

3. Brief facts of the case are that when the victim/prosecutrix was returning from her work place, on the way, the applicants reached there in a Bolero vehicle, forcibly took the prosecutrix in the vehicle, went towards the jungle side and applicant Phool Prakas Ekka committed rape with her. Based on the above fact, crime was registered against the applicant Phool Prakash Ekka and one another under Sections 376, 506, 34 & 120B of the IPC.

4. Learned counsel for the applicants submits that it is totally false and fabricated case. True fact is that applicant Phool Prakash Ekka and the victim/prosecutrix, aged about 23 years, were having love affair with each other, both of them were in continuous contact with each other through whatsapp chat on the date of incident, prior to that and also after the date of incident, in which the victim/prosecutrix demanded money from him, but since the money was not given, she lodged present FIR against the applicants. Even in the whatsapp chat also the victim/prosecutrix threatened applicant Phool Prakash Ekka to implicate him in rape case. To support his argument, learned counsel for the applicant attracts attention of the court in Annexure A/3 (Page 19-32) . He would next submit that it is not a case of rape, the applicants are in jail since 02.8.2021, charge sheet has been filed, hence, the applicants may be released on bail.

5. On the other hand, learned counsel for the State while opposing the bail application submits that it is a case of rape which is heinous crime, hence, the applicants are not liable to be released on bail.

6. I have heard learned counsel for the parties, perused the case diary and the material available on record.

7. Considering the facts and circumstances of the case, particularly taking into consideration the age of the victim/prosecutrix, date of filing of FIR and and also taking into consideration the alleged whatsapp chat, detention period of the applicants and also considering that charge sheet has been filed, I feel inclined to allow the bail application. Therefore, the applications under Section 439 of the CrPC are allowed. It is ordered that if

each of the applicants furnishes one solvent surety for a sum of Rs.50,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for their appearance before the concerned Court as and when directed by the said Court, they be released on bail.

Certified copy as per rules.

Sd/-
(N.K. Chandravanshi)
JUDGE

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