

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.7783 of 2020

- Ashraf Ali S/o Azad Ali Aged About 19 Years R/o Bapu Nagar, Khursipaar, Bhilai District Durg (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Khursipaar, District Durg (Chhattisgarh)

---- Respondent

M.Cr.C. No.7785 of 2020

- Ashraf Ali S/o Azad Ali Aged About 19 Years R/o Bapu Nagar, Khursipaar, Bhilai District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Khursipaar District Durg Chhattisgarh

---- Respondent

For Applicant	: Mr. Anurag Jha, Advocate.
For Non-applicant/State	: Mr. Adil Minhaj, G.A.
For objector (in M.Cr.C. No.7783/2020)	: Mr. Galib Dwivedi with Mr. Amiyakant Tiwari, Advocate.
For Objector (in M.Cr.C. No.7785/2020)	: Mr. Suresh Tandon, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-02-2021

Heard.

1. Although the Crime Numbers in both the cases are different i.e. Crime No.496/2020 (in M.Cr.C. No.7783/2020) and Crime No.497/2020 (in M.Cr.C. No.7785/2020) both are registered at P.S. Khursipaar, District-Durg (C.G.) for the offence under Sections 363, 376(3), 354, 342 and 506 read with Section 34 of I.P.C. and Sections 04 and 08 of POCSO

Act, but the applicant is common in both the applications, therefore, both the applications are decided by this common order.

2. It is submitted by learned counsel for the applicant in both the cases that there is no allegation of rape against this applicant. The other allegations against him regarding his presence and participation in the incident, wherein the prosecutrix in both the cases were raped have no connection with this applicant. The applicant is in jail since 19.07.2020. Hence, it is prayed that this applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix in both the Crime Numbers have categorically stated and alleged about the participation of this applicant in the commission of offence of gang rape. Therefore, the act of the applicant is clearly covered under the definition of gang rape under Section 376 (D) of I.P.C. Therefore, he is not entitled for grant of bail.
4. Complainant- Shyamdhani gave appearance before this Court in M.Cr.C. No.7783 on 15.01.2021 and has objected to grant of bail to this applicant.
5. Complainant- Sanju Singh is present before this Court today in the M.Cr.C. No.7785 of 2020. She has stated about her no objection for grant of bail to this applicant.
6. Heard learned counsel for the parties and perused the case diary.
7. The case of prosecution in Crime No.496 of 2020 is this, that on the date of incident, when she had gone for walk with her friend, who is the prosecutrix in another case, this applicant and one co-accused Shubham Prasad by use of force took both of them on a ride on their motorcycle. She has alleged that during this ride, this applicant had outraged her modesty by physically touching her body. She and her

friend were then left in a place, where she again met with the co-accused Shubham Prasad and the juvenile offender- Rohit Kumar. Then, both the prosecutrix were taken to the house of the Rohit Kumar where the co-accused- Shubham Prasad raped her. Hence, this case.

8. The case in Crime No.497 of 2020 is this that the minor prosecutrix and her friend who is also prosecutrix in another case were forcefully taken on ride by this applicant and the co-accused- Shubham Prasad during which this applicant was kissing and outraging her modesty. The applicant and the co-accused took the prosecutrix to the house of the juvenile offender- Rohit where they were kept in confinement and then the juvenile offender- Rohit raped her. Hence, this case.
9. Considered on the submissions, it appears that this applicant was not present when the prosecutrix in both the cases were raped by the other co-accused and the juvenile offender. The allegation against this applicant is only with respect to outraging modesty of the minor victims and in their abduction. Hence, after due consideration, I feel inclined to allow both the applications.
10. Consequently, these applications filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his 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 his appearance as and when directed.
11. Certified copy as per rules.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge