

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6398 of 2021

1. Sunil Kumar Verma S/o Gudari, Aged About 28 Years, R/o Panchrasta, Ward No. 6, Police Station Supela Tahsil And District Durg (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh, Through Police Station Durg, District Durg (C.G.).

---- Non-Appllcant

For Applicant	:	Mr. T.K. Jha, Advocate.
For Non-Appllcant/State	:	Mr. Rahim Ubwani, P.L.

MCRC No. 6970 of 2021

1. Rampratap @ Goli Kuril S/o Late Rajaram, Aged About 28 Years Dhorari, Devariya, P.S. And District Balrampur (U.P.), At Present R/o Laxmi Nagar, Ward No. 8, House Of Anil Sahu, Supela, Near Nursing Home, Supela, Bhilai, District Durg (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station Durg, District Durg (C.G.).

---- Non-Appllcant

For Applicant	:	Mr. T.K. Jha, Advocate.
For Non-Appllcant/State	:	Mr. Rahim Ubwani, P.L.

Hon'ble Shri Justice Gautam Chourdiya
Order On Board

09/11/2021

- 1) Heard.
- 2) Since both these applications arise out of the same crime number, they are being disposed of by this common order.

- 3) These are the **Second Bail Applications** filed by the applicants under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. Their First Bail Application i.e. MCRC 170/2021 was dismissed on merits vide order dated 12/02/2021.
- 4) The applicants are arrested on 20/10/2020 & 22/10/2020 respectively in connection with Crime No. 722/2020 registered at Police Station Durg, District Durg (C.G.) for the offence under Sections 376(D), 368 and 347 of Indian Penal Code.
- 5) Case of the prosecution, in brief, is that the prosecutrix has lodged a report that on 19.10.2020, when she was standing at Kachahari Chowk Durg, one person came there and on the pretext of providing job of cleaning, took her in the building which was under-construction and committed forcible sexual intercourse with her and thereafter he called the another person and he also committed sexual intercourse with her. The prosecutrix reported the matter to the police and in test identification, she has identified the applicants.
- 6) Learned Counsel for the applicants submit that the applicants are innocent persons and have been falsely implicated in this case. The prosecutrix has been examined before the Trial Court wherein she has turned hostile and subsequently stated that she has not identified the applicants. He submits that there is no apprehension of the applicants tampering with the evidence or absconding. He further submits that applicants are in jail since 20/10/2020 & 22/10/2020 respectively, charge sheet has been filed and conclusion of trial is likely to take some time. Therefore, the applicants deserve to be released on bail.
- 7) On the other hand, learned counsel for the State opposes the bail applications.
- 8) I have heard learned Counsel for the parties.
- 9) Though the First Bail Application of the applicants was rejected on merits, however the prosecutrix has been examined thereafter

before the Trial Court. Thus considering the statement of the prosecutrix in paras 17 & 18 of her deposition and that other witnesses have also been examined, looking to the changed facts and circumstances of the case, the detention period of the applicants who are 28 years old, the fact that there is no apprehension of the applicants tampering with the evidence or absconding as admitted by counsel for the parties and conclusion of trial may take some time for its disposal, the applications are **allowed**. It is directed that in the event of **each** of the applicants executing a personal **bond** for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail on the following conditions:-

- i. they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial,
- iii. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- iv. they shall not involve themselves in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

-Sd/-
(Gautam Chourdiya)
Judge