

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7292 of 2021**

Devkumar Nishad, S/o Munnaram Nishad, aged about 24 years, Residence of
village Beltukri, P.S. Bilha, District – Bilaspur (C.G.) (In jail)

---- Applicant**Versus**

State of Chhattisgarh, Through Police Station – Bilha, District – Bilaspur (C.G.)

----Non-applicant**M.Cr.C. No. 7624 of 2021**

1. Pawan Kumar Khusaro, son of Baldeo Khusaro, aged about 22 years,
2. Praveen Bargah, son of Rameshwar Bargah, aged about 21 years,

Both resident of Beltukari, P.S. Bilha, Tahsil Bilha, District Bilaspur (C.G.)

---- Applicants**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Bilha,
District Bilaspur (C.G.)

----Non-applicant

For Applicant	:	Mr. G.L. Uike, Advocate in M.Cr.C. No. 7292/2021. Mr. Virendra Verma, Advocate in M.Cr.C. No. 7624/2021.
For Non-applicant	:	Mr. Sameer Uraon, Govt. Adv. for the State/non-applicant
For Objector	:	Mr. Hariom Rai & Mr. Akash Kumar Kundu, Advocates.

Hon'ble Mr. Justice N.K. Chandravanshi**Order On Board****18-11-2021**

- (1) Above mentioned both the bail applications filed under Section 439 of the Cr.P.C. arise out of a common Crime No.167/2021, registered at Police Station Bilha, District

Bilaspur (C.G.), for commission of offence punishable under Section 376 (d) of the Indian Penal Code, therefore, they are being heard analogously and decided by this Common Order.

(2) During course of arguments, counsel for both the parties submit that name of applicant No. 2 – Praveen Bargah has been mentioned in the arrest/court surrender memo as Praveen Bargah @ Pradeep, S/o Rameshwar Bargah.

(3) Case of the prosecution, in brief, are that on 15.7.2021, prosecutrix filed written complainant at Police Station Bilha stating that on the said date at about 2.30 pm. when she was going to Mangla from her village alongwith her sister, on the way near Pushnath Narwa, her uncle Navin met her. When she was talking with her uncle, at that time, accused persons namely Avtaar Nishad, Manoj, Pradeep Barga (applicant No. 2 in M.Cr.C. No.7624/2021) came there and told her that she was talking with Navin, she should also talk with us otherwise they would defame her in village. The accused persons also threatened to beat her uncle and sister Darasmati. Her uncle and sister moved from there. Thereafter, accused Puneet, Pawan, Devkumar Nishad and Sukhnandan came there and Punit caught hold of her hand, took her toward bushes, fallen her down on the ground. It is alleged that Pawan, Dev Kumar Nishad and Punit all forcefully undressed her, Devkumar caught hold of her hands and Pawan caught hold of her legs, thereafter, Punit committed forcible sexual intercourse with her against her will. At the time of incident, accused Awtaar, Pradeep, Manoj and Sukhnandan were standing there and were seen the incident. When the prosecutrix any how escaped from the accused, she lodged the report against the accused persons in Police Station Bilha.

(4) Learned counsels for the applicants would submit that applicants are innocent persons and they have been falsely implicated in the crime in question as they have not committed the alleged crime. They would also submit that prosecutrix is a major girl at the time of incident and as per charge-sheet, applicants have not committed alleged rape with the victim/prosecutrix. They would next argue that similarly situated co-accused namely Sukhnandan Nishad has already been granted bail by the Coordinate Bench vide order dated 25.8.2021 passed in M.Cr.C. No. 5682 of 2021 and case of the present applicants is similar to the case of co-accused Sukhnandan Nishad, therefore, applicants are also entitled for grant of bail on the ground of principle of parity.

(5) On the contrary, learned counsel for the State assisted by counsel for the Objector while vehemently opposing the bail application filed by the applicants would submit that at the time of incident co-accused Sukhnandan Nishad, whose bail has already been granted by the coordinate Bench, was only standing at the time of place of occurrence but the presents applicants have played active role in the crime of gang rape, therefore, the applicants are not entitled for regular bail.

(6) I have heard learned counsel appearing for the parties and perused the case diary as well as material available on record.

(7) Considering the facts & circumstances of the case, nature & gravity of the offence; as per case-diary, co-accused Sukhnandan Nishad was standing at the place of occurrence and he was seeing the incident only, but the presents applicants have played active role in the crime of gang rape, thus, case of the present applicant is clearly distinguishable to the case of co-accused Sukhnandan Nishad, who has been granted bail by the coordinate Bench, I am is of the opinion, that it is not a fit case to grant bail to the applicants. Thus, both the bail applications filed by the applicants are rejected.

Certified copy, as per rules.

Sd/-
(N.K.Chandravanshi)
Judge

D/-

