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HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 7511 of 2021**

- Tukesh @ Taibu Dewangan S/o Rikhiram Dewangan, aged about 27 Years R/o Village Teehu Para, Ward No. 08, Simga, Police Station Simga, District Balodabazar Bhatapara Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Station House Officer, Police Station Simga, District Balodabazar Bhatapara, Chhattisgarh

-----Non-applicant**WITH****MCRC No. 7647 of 2021**

- Suryakant Tamrakar S/o Prabhat Tamrakar Aged About 41 Years R/o Sheetal Para, Ward No. 4, Simga, Police Station Simga, District Balodabazar-Bhatapara, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through: Station House Officer, Police Station Simga, District Balodabazar-Bhatapara, Chhattisgarh.

---- Non-applicant

For Applicants	: Mr. Y.C. Sharma, Sr. Advocate with Mr. Vivek Sharma, Advocate
For Non-applicant/State	: Mr. Amit Verma, Panel Lawyer

Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****16/12/2021**

1. As both these applications are arising out of same crime number, hence, they are being heard together, and being disposed of by this common order.
2. Applicants have filed these applications under Section 439 of CrPC for grant of regular bail as they have been arrested in connection with Crime No. 381/2021 registered at Police Station Simga, District Baloda Bazar- Bhatapara (C.G.) for the offence punishable under Section 294, 323, 506, 452, 354(a) & (b), 34 of IPC.

3. Case of prosecution is, that on 22.08.2021, at about 06:00 pm, complainant went to the shop of Tukesh @ Taibu Dewangan complaining him that why he used to make obscene comment against her and her brother on social media and also uploading photographs. After hearing complaint both applicants have assaulted her, outraged her modesty, torn her blouse and pressed her chest, due to which, complainant suffered injuries over nose, lips and chest along with other injuries. Report was lodged on the same day based on which, aforementioned crime is registered against applicants and Tukesh @ Taibu was arrested on 23.08.2021 and Suryakant Tamrakar was arrested on 30.08.2021.

4. Mr. Y.C. Sharma, learned counsel for the applicants would submit that absolutely false and baseless allegations have been levelled against applicants. They have not committed alleged crime. He submits that it is the complainant herself who from her house came to the shop of Tukesh @ Taibu Dewangan situated near old Bus Stand, Simga, which is main market area. Complainant came in the shop with a club in her hand, started abusing and also assaulting both applicants. Applicants tried to resist the act of complainant in their self defence and nothing more was done to complainant. Injuries suffered by complainant is on account of her act when she tried to assault the applicants and applicants resisted in their self defence. Incident was captured in CCTV footage and the same is placed on record along with covering memo from which it is apparent that complainant herself is in possession of a club and was in an aggressive mood. He also submits that applicant Tukesh @ Taibu has lodged report, on next day, of the incident took place on 22.08.2021 which took place at about 05:30 pm to the concerned police station. Based on which FIR was registered against complainant/ prosecutrix along with her daughter for offence defined under Section 294, 323, 506 and 34 of IPC. Copy of FIR is placed on record. It is pointed out that as the daughter of complainant is minor, she was produced before the Juvenile Court, during course of proceedings, minor girl child in conflict with law admitted her guilt, copies of which is also placed on record along with covering memo dated 30.11.2021 and fine was imposed upon her, which prima facie shows that the juvenile along with her mother have committed offence as alleged against them which itself is sufficient to show that it is the

complainant who went to the shop of applicant Tukesh @ Taibu and has committed offence and allegations of outraging modesty and others are false, only to make graver allegation. He also submits that applicants are in jail since 23.08.2021 and 30.08.2021, offences are triable by Magistrate which may take some time, hence, applicants may be enlarged on bail.

5. Mr. Amit Verma, learned State counsel, while opposing the submissions of learned counsel for the applicants, would submit that complainant went to the shop of applicants only to object the act of applicant Tukesh @ Taibu where other co-accused Suryakant was also present when she was raising her objection, both applicants have assaulted and outraged her modesty. The photographs placed on record showing complainant in action is only part of incident and rest part of incident is not placed on record which was collected during course of investigation by the police. The allegation levelled against applicants are serious in nature. Upon asking specific question to learned State counsel with regard to date and time of incident, learned counsel submits that in the FIR the incident alleged is of 22.08.2021 at about 06:00 pm and there is no other incident reported in the FIR. The documents as placed on record by learned counsel for applicants of the proceedings by the Chief Magistrate, Juvenile Court, Balodabazar is not disputed, stating that this appears to be photocopy of proceedings.
6. I have heard learned counsel for the parties.
7. Taking into consideration, nature of allegations, facts and circumstances of the case, place of incident which is shop of applicant Tukesh @ Taibu, further the proceedings of Juvenile Justice Board, Baloda Bazar wherein the child in conflict with law has admitted her guilt and fine was imposed upon her in the proceeding dated 22.09.2021, applicants are in jail since 22.08.2021 and 30.08.2021, offence to be triable by Magistrate which may take some time, without commenting anything on merits, I am inclined to allow the bail application.
8. Accordingly, the bail application is allowed. It is directed that the applicants shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- each with one surety in the like

sum to the satisfaction of the Court on the conditions that-

- a) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) The applicants shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicants are found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

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