

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7965 of 2020**

1. Gitesh Verma S/o Firik Lal Verma Aged About 24 Years R/o Bhathapara, Ward No. 05, Utai, Tahsil And Police Station Anda, District Durg, Chhattisgarh
2. Devendra Verma S/o Ashwani Kumar Verma Aged About 19 Years R/o House No. 339, Patanpul, Ward No. 07, Utai, Tahsil And Police Station Anda, District Durg, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through- The Station House Officer, Police Station Anda, District Durg, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Tarendra Kumar Jha, Advocate.
For the Respondent/State	:	Shri B.P. Banjare, G.A.
For the Complainant	:	Shri Praveen Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.01.2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.74 of 2020, registered at Police Station – Anda, District – Durg, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicants are in jail since 8.9.2020 and have been falsely implicated in this case. The prosecutrix was not minor on the date of incident. Further, she has made a

false statement against the applicants. The prosecutrix had herself left her parental house after having an argument with her parents and when she was recovered she has come up with a cooked story against these applicants, hence, her statement is not believable. The father of the prosecutrix, namely, Bhaan Singh Sahu and mother of the prosecutrix, namely, Bhagwati Sahu both have given an affidavit in support of these applicants. Hence, it is prayed that the applicants be enlarged on bail during the pendency of trial.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the statement of the prosecutrix is very clear and categoric against these applicants and there is a serious allegation regarding the commission of offence of gang rape by these applicants and others. The statement of no objection by the parents of the prosecutrix cannot be given any consideration as it shows that the applicants' side is already influencing the witnesses. Hence, no case is made out for grant of regular bail to these applicants.

4. Learned counsel for the complainant submits that the complainant has no objection in grant of bail to the applicants. Affidavits have also been filed by the complainant and his wife in support of the application.

5. Heard counsel for both the parties and perused the case diary.

6. Complainant – Bhaan Singh Sahu lodged a missing report on 6.9.2020 in the police station with respect to his daughter, the prosecutrix. The prosecutrix was brought to the police station by her parents on 7.9.2020

then her statement was recorded. She gave a statement that when she left her house after argument with her parents on 5.9.2020, applicant No.1 – Gitesh Verma by allurement took her to a house, where she was raped by both these applicants and one another. She was not aware of the names of the applicants and others but came to know of the names when they were calling each other by name.

7. Considered the submissions. The reliability of the statement of the prosecutrix shall be tested in the trial. Only for the reason that the parents of the prosecutrix have no objection, the case which is not fit for granting bail cannot become a case fit for granting bail. The allegation against these applicants and others are of very serious nature, therefore, I am not inclined to grant bail to these applicants.

8. Accordingly, the bail application filed by the applicants under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge