

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 6765 of 2021**

- Banarsi Lal S/o Chhedilal Sahu aged about 38 Years Residence of Village - Balrampur, P.S. and Tahsil - Balrampur, District - Balrampur-Ramanujganj (Chhattisgarh).

-----Applicant**VERSUS**

- State of Chhattisgarh through: Through Station House Officer - Pasta, District - Balrampur-Ramanujganj (Chhattisgarh).

-----Non-applicant**WITH****MCRC No. 7849 of 2021**

1. Ramnath Yadav S/o Late Madan Yadav, aged about 62 Years R/o Village-Khatwabardar, P.S. Pasta, district-Balrampur-Ramanujganj Chhattisgarh
2. Shivrakash Yadav alias Parku, Late Banvari Yadav, aged about 47 Years R/o Village - Khatwabardar, P.S. Pasta, District- Balrampur-Ramanujganj Chhattisgarh

---- Applicants**Versus**

- State of Chhattisgarh Through Station House Officer – Pasta, District-Balrampur - Ramanujganj Chhattisgarh

----Non-applicants

For Applicants	: Mr. Sunil Tripathi, Advocate.
For Non-applicant	: Mr. Ankur Kashyap, Panel Lawyer.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****29/11/2021**

1. 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. 10/2021 registered at Police Station Pasta, District Balrampur, Ramanujganj (C.G.) for offence punishable under Section 450, 376D, 506 of IPC.
2. As per case of prosecution, on 15.01.2021, applicants under

influence of liquor came to house of complainant, started abusing her husband in filthy language and when prosecutrix opened the door, all the applicants entered into the house and taking benefit of absence of her husband all of them committed sexual intercourse with her. The incident was reported on next day, based on which, aforementioned crime is registered against applicants and they were arrested on 30.07.2021 and 04.08.2021.

3. Mr. Sunil Tripathi, learned counsel for applicants would submit that absolutely false and baseless allegations have been levelled against applicants. One another woman who is resident of same village has intimated the fact of gang rape to be committed by Dhansay, Shivprasad and Sukhna, (husband of complainant, in the instant case) to applicant Ramnath who is ex-sarpanch of village panchayat. The allegations against husband of complainant and two others are also of gang rape. FIR lodged by another woman was prior one. Only because applicants were helping other prosecutrix, false allegations have been levelled against applicants to pressurize them. He also submits that the allegations against applicants are of commission of gang rape with her but no internal injury was found in MLC even when prosecutrix was examined immediately on next day. Prosecutrix was examined before trial Court on 13.10.2021 in which she has not supported the case of prosecution, she was declared hostile, copy of deposition sheet is filed along with application for taking additional document on record. Applicants are in jail since 04.08.2021, hence, applicants are entitled for grant of bail.
4. Mr. Ankur Kashyap, learned State counsel, while opposing the submission of learned counsel for the applicant, would submit, that there are serious allegations against applicants. Applicants in the night entered into the house of prosecutrix and committed gang rape with her. He also submits that in the FSL report, there is mention of semen present on cloths of prosecutrix. Prosecutrix was examined by doctor immediately on next day ie. 16.01.2021 and the doctor found superficial abrasion on back of prosecutrix, hence, there is prima facie involvement of applicants in commission of alleged crime.
5. I have heard learned counsel for the respective parties and perused the documents placed on record along with bail application.

6. Perusal of Annexure A-2 would show that one another women has lodged report against Dhansay, Shivprasad, Sukhna, husband of prosecutrix, for commission of gang rape. The report lodged by one another woman against husband of prosecutrix and others would show that the said report was prior one bearing crime number 09/2021, submission of learned counsel for applicants that the prosecutrix has not supported the case of prosecution in her court statement, applicants are in jail since 30.07.2021 and 04.08.2021, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail applications are 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 local 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 applicant 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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