

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8255 of 2021**

1. Ganga Sagar Yadav, S/o Shri Udaynath Yadav, aged about 55 Years, R/o Village Kindha (Sirdhahi), Police Station – Kapu, District – Raigarh, Chhattisgarh.
2. Bachcha Ram Yadav, S/o Shri Sukhadi, aged about 65 Years, R/o Patkura, (Ghaton), O.P. - Kunni Police Station - Lakhanpur, District - Surguja (C.G.) (Wrongly mentioned as both R/o Patkura, P.S - Udaypur District Surguja (C.G.) in cause title of first bail application M.Cr.C. 2081/2021).

----Applicants

Versus

- State of Chhattisgarh, Through the Station House Officer, Police Station - Udaypur, District – Surguja, Chhattisgarh.

---- Non-applicant

For Applicants	Ms. Sonia Kuldeep, Advocate.
For State	Mr. Rahim Ubwani, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

25/11/2021

1. First bail application preferred by the applicants was dismissed as withdrawn vide order dated 08.04.2021 passed in MCRC No. 2081 of 2021.
2. The applicants have preferred this second bail application under Section 439 of Cr.P.C. as they have been arrested in connection with Crime No.80/2017 registered at Police Station Udaypur, District Surguja, C.G. for the offence punishable under Sections 376 (D) & 506 of Indian Penal Code.
3. Case of the prosecution, in brief, is that on 16.07.2017 about 3:00 pm

while prosecutrix was grazing buffalos in Jungle, at that time present applicants came there, caught hold of her hands, dragged her, removed her clothes and committed forcible sexual intercourse with her. On report being lodged to the above effect, the aforesaid offence have been registered against the applicants.

4. Learned counsel for the applicants submits that applicants are innocent persons and have been falsely implicated in this case. She also submits that applicants have not played any role in alleged offence. The prosecutrix has been examined before the trial Court as per Annexure A-3, she has turned hostile and not supported the prosecution case at all. Applicants are in custody since 09.02.2021, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, they may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application. However, he submits that the applicants have no criminal antecedents.
6. Heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the nature of allegation against the applicants, the deposition of the prosecutrix recorded before the trial Court, charge sheet has already been filed, the detention period of the applicants, who are 55 & 65 years old, the applicants have no criminal antecedents and there is no likelihood of the applicants tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, in the changed circumstances of the case, without commenting anything on

merits of the case, this Court is of the opinion that present is a fit case to release the applicants on bail. Accordingly, the bail application is 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, and
- (iii) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (iv) they shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.

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 any offence in future.

Sd/-
Gautam Chourdiya
Judge