

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8666 of 2020**

- Jhaggu Lal Sahu S/o Narottam Sahu, Aged About 41 Years R/o Khedamara, Shivshakti Para, Nawatariya, Police Station Jamul, District Durg Chhattisgarh.

(The Details Of Name Of The Applicant Is Not Mentioned In The Certified Copy Of Order), District :
Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station Jamul, District - Durg Chhattisgarh

---- Respondent

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MCRC No. 9285 of 2020

- Ajay Kumar Thakur @ Horilal S/o Late Prabhulal Aged About 28 Years R/o Village Khedamara, Shivshakti Para, Nawatariya, Jamul, Tehsil And District Durg, Chhattisgarh, Police Station Jamul Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Jamul District Durg Chhattisgarh

---- Respondent

For respective Applicants : Shri T.K.Jha and Ms. Aditi Singhvi, Advocates

For State : Shri Pawan Kesharwani, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****11/02/2021**

Heard.

Both the bail applications are being disposed off by this common order as they arise out of the same crime number.

1. The applicants have been arrested in connection with Crime No.464/2020 registered at Police Station – Jamul, District – Durg (C.G.) for alleged commission of offences under Section 376-D, 506 of IPC.
2. Prosecution case is that the applicants subjected the prosecutrix to repeated rape from 23/04/2019 to 30/09/2019. It is alleged that because of the threat, the prosecutrix could not reveal these incidents to her husband and when it was later on disclosed, she was ousted from matrimonial house and her husband started declaring that he would give divorce and therefore, the prosecutrix lodged report in the police station on 20/10/2020.
3. Learned counsel for the applicants would submit that present is a case of complete false implication. It is submitted that the prosecutrix is a major and mother of two children. Her story that she was subjected to rape from 23/04/2019 from 30/09/2019, is highly improbable because had it been a case of rape, she would have lodged report by informing to her husband or any other person but nothing was done. The FIR was lodged after more than one year only when the husband started threatening to give her divorce because of alleged illicit relations with the applicants. Therefore, the applicants, at this stage, may be granted bail.
4. On the other hand, learned State counsel submits that merely because there was some delay in lodging FIR, the entire story of she was subjected to rape for a long time cannot be disbelieved at this stage as the accused are one of her relative and his friend. She has stated that because of threat, she did not inform her husband in time and she was sent to her parental house by her husband suspecting her character and therefore, it became necessary for her to lodge report against the applicants.
5. On *prima facie* considerations, the prosecutrix, who is stated to be a mature lady, alleged that she was subjected to sexual intercourse repeatedly against her wishes from 23/04/2019 to 30/10/2019, but no report was lodged by the prosecutrix during this period nor even informed her husband. She does not say in the complaint in writing, 164 CrPC statement or 161 CrPC statement as to when she informed her mother. She herself stated that she was shunted out of the matrimonial house and she was residing in her parental house. The FIR was lodged after one year of last incident on 30/09/2019 and the only reason assigned is that she is being threatened of giving divorce by her husband. Therefore, taking into consideration the aforesaid alleged report itself lodged by the prosecutrix, possibility of false implication cannot be ruled out. Therefore, when the investigation is complete and charge sheet has been filed, I am inclined to grant bail to the applicants.

6. Accordingly, the application is allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court on the condition that -

- a) They shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) They shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge