

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.9145 of 2021

- Amitabh Dubey, S/o Chandraka Prasad, Aged About 25 Years, R/o Village Khatorakala, Tehsil Dalpatpur, District Sagar (Madhya Pradesh)

---- Applicant

Versus

- State of Chhattisgarh, Through Police Station Kansabel, Tehsil Kansabel, District Jashpur, Chhattisgarh

---- Respondent

And

MCRC No.9159 of 2021

- Komal Ahirwar, S/o Umeda Ahirwar, Aged About 29 Years, R/o Village Udaipura, Tahsil - Bijawar, P.S. - Bijawar, District Chhatarpur (M.P.)

---- Applicant

Versus

- State of Chhattisgarh Through Police Station - Kansabel, District Jashpur (C.G.)

---- Respondent

For Applicants
For Respondent

Mr. Anshul Tiwari, Advocate
Mr. Jitendra Shukla, PL

Hon'ble Justice Shri Deepak Kumar Tiwari

Order On Board

17/12/2021

1. The applicants have preferred these first bail applications under Section 439 of CrPC for grant of regular bail, as they have been arrested in connection with Crime No.57/2021,

registered at Police Station Kansabel, District Jashpur for the offence punishable under Sections 343, 368, 376 (2) (n) (Applicant Amitabh Dubey) and Sections 386, 370 (2), 376, 376 (2) (n), 385, 506, 342/34 of IPC (Applicant Komal Ahirwar).

2. The case of the prosecution in brief is that on 17.02.2021, the accused Komal Ahirwar took the victim for treatment to his hometown Udaipur, where he kept the victim for 13 days. Thereafter, uncle of Amitabh Dubey had insisted the victim to get married to Amitabh Dubey. On 02.03.2021, Komal Ahirwar took Rs.1 Lakh from Kamlesh Dubey and sold the victim. Thereafter Komal Ahirwar and Amitabh Dubey took the victim to Chhatarpur, where Amitabh Dubey forcibly married to victim and came to Khatora and thereafter Amitabh Dubey committed forcible sexual intercourse with the victim. The victim had informed the incident to her father over phone, thereafter her mother informed the police station, so the offence has been lodged.
3. Learned counsel for the applicants submits that the applicants are innocents and have been falsely implicated in the crime in question. The applicant Amitabh Dubey is already married to victim. The victim herself had made a decision to reside with him. The victim has turned hostile and did not support the prosecution story, as such there is nothing left in the case to further prosecute the applicants. The applicants are in jail since 09.05.2021, therefore, they may be released on bail.

4. On the other hand, learned State counsel opposes the bail application.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, nature of offence, further considering that the prosecutrix has turned hostile and did not support the case of the prosecution in any manner, this Court finds fit to enlarge the applicants on bail.
7. Accordingly, the bail application is allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond for a sum of ₹ 5,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed, subject to following conditions:

(I) The applicants shall furnish a coloured passport size photograph and also a copy of the Aadhar Card before the Trial Court at the time of bail, which shall be verified from its original by the trial Court.

(II) The applicants shall furnish a specific undertaking that while on bail, they will not commit any offence of the same nature, otherwise the bail granted to them shall be liable to be cancelled and shall cooperate the prosecution during trial.

(III) The accused/applicants 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/her from disclosing such facts to the Court or to any police officer.

(IV) The accused/applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Sd/-
Deepak Kumar Tiwari
Judge

Nirala