

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.9666 of 2021

1. Ashok Das, S/o Hira Das Aged About 34 Years,
2. Ghanshyam Vishwakarma, S/o Late Janakaram Aged About 37 Years,

Both are R/o Village Son, P.S. Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through The Station House In-Charge, Police Station Pachpedi, District Bilaspur Chhattisgarh.

---- Respondent

For Applicants : Smt. Supriya Upasane, Advocate

For Respondent – State : Shri Wasim Miyan, PL for the State

Hon'ble Shri Justice Deepak Kumar Tiwari

Order On Board

20.12.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants, who have been arrested in connection with Crime No.321/2021, registered at Police Station – Pachpedi, District – Bilaspur (CG) for the offence punishable under Sections 506, 376(2)(d) of the IPC.
2. As per the prosecution case, the prosecutrix has lodged a written stating in it that on 10.08.2021 at about 10.00 a.m. both the applicants reached to the house of prosecutrix and for providing work in their relatives Poha Mill situated at Bhatapara, they both took her in his motorcycle to Bhatapara.

When they all reached there they did not meet the owner of mill as he was going somewhere. On the same day at about 4.00 p.m. they both taken the prosecutrix to a desolate place far away from her house and committed rape on her. Thereafter, on 14.10.2021 at about 8.00 p.m. when both the applicants reached to the house of prosecutrix with bad intentions and at that the prosecutrix brother Nageshwar and Dr. Patel was present there and on seeing them, both the applicants ran away. Thereafter, the offence has been registered on 15.10.2021.

3. Learned counsel for the applicants submits that the applicants are innocent and they have been falsely implicated in the present case. He further submits that the FIR has been lodged after a lapse of two months from the date of incident. It is next submitted that the prosecutrix is a major lady aged about 35 years and the applicants are in jail since 16.10.2021 and trial is likely to take some time, therefore, they may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, particularly considering the nature of accusation and that the FIR has been lodged after a period of two months of the incident and further that there is no likelihood of the applicants tampering with the prosecution evidence or absconding and conclusion of trial may take some time, the application is allowed.
6. It is directed that in the event of the Applicants executing a personal bond for a sum of Rs.10,000/- (to each) with two sureties in the like sum to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions :-
 - (a) 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.
 - (b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - (c) they shall appear before the trial Court on each and every date

given to them by the said Court till disposal of the trial,
(d) they shall not involve themselves in any offence of similar nature
in future.

Sd/-

(Deepak Kumar Tiwari)
Judge

Yasmin