

M.Cr.C.No.3199/2016**30.4.2016**

Shri Z.A. Khan, learned counsel for the applicants.

Ms. Mini Ravindran, learned Govt. Advocate for the respondent/State.

Heard.

ORDER

This is the first bail application under Section 439 of Cr.P.C. Applicants Kailash s/o Hariram and Gopi s/o Ranchod have been arrested in Crime No. 422/2015 registered at Police Station Pithampur, District Dhar for offence punishable under Sections 376, 313, 324, 506 of the IPC.

According to the prosecution case, complainant was married with Ashish Gandhi. She gave birth to a daughter who is aged 6 years. Some dispute was going on between the complainant and her husband. During this she came in contact with Rahul who assued her to marry. Rahul called her at Ratlam, however, instead of taking her to his house he took her to Indore and kept in a lodge and committed sexual intercourse with her. In the meantime her husband lodged a missing report of the prosecutrix and this fact came to the notice of Rahul. Rahul along with other 5-6 persons brought the prosecutrix to Badoda and threatened the prosecutrix to give a statement to the Police that she had gone to Ratlam on

her own will. Out of fear she gave a statement to the Police as per the version of Rahul. Thereafter on 30.8.2015 Rahul called the prosecutrix saying that he would marry her and asked her to take divorce from her husband. The prosecutrix was called in village Malda by Rahul for the purpose of marriage where the wife of Rahul, Radhabai rushed to beat her with Darata. Thereafter she was confined in a room and she was beaten by the family members of Rahul. When she disclosed that she is pregnant they administered medicine to her forcibly to get the pregnancy aborted and thereafter to sell her to somebody else, as a result of which her pregnancy got aborted.

Learned counsel for the applicants submits that the applicants have not committed any offence and they have falsely been implicated. There is no allegation against the present applicants for committing the rape with the complainant. It is further submitted that co-accused persons namely Smt. Radha Bai and Smt. Santosh Bai have been granted bail by order dated 22.3.2016 and 21.4.2016 in M.Cr.C.No.2524/2016 and M.Cr.C. No.3203/2016 respectively. The case of the present applicants are almost identical to the case of the co-accused persons. The applicants are in custody since 11.4.2016. The conclusion of trial likely to take a long time. Hence, on the grounds of parity, counsel prayed for grant of bail.

The prayer is opposed by learned Govt. Advocate.

Case diary perused.

Considering the the allegation against the applicants coupled with fact that the co-accused have already been granted bail and the applicants are under custody since 11.4.2016 and the conclusion of the trial is likely to a long time, however, without commenting on the merits of the case, the bail application is allowed. It is directed that the applicants shall be released on bail on their furnishing personal bond in the sum of **Rs.50,000/-** (Rupees Fifty Thousand Only) each with one solvent surety each in the like amount to the satisfaction of **Trial Court.**

This order will remain operative subject to compliance of the following conditions by the applicants :-

1. The applicants will comply with all the terms and conditions of the bond executed by him;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants shall not commit an offence similar to the offence of which he is accused;
5. The applicants will not seek unnecessary adjournments during the trial; and
6. The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.c. as per rules.

(D.K. Paliwal)
Judge

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