

HIGH COURT OF CHHATTISGARH, BILASPUR

ORDER SHEET

Criminal Appeal No.1803 of 2017

1. Harichand Mandal @ Paka Mandal @ Haricharan S/o Late Gourang Mandal, Aged About 27 Years R/o P. V. 130, P. S. Pankhajur, District North Bastar Kanker Chhattisgarh, Chhattisgarh
2. Gopal Mandal S/o Subhash Mandal, Aged About 33 Years R/o P. V. 130, P. S. Pankhajur, District North Bastar Kanker, District : Kanker, Chhattisgarh

---- Appellants

Versus

State Of Chhattisgarh Through The Police Station Pankhajur, District North Bastar Kanker Chhattisgarh

---- Respondent

09.05.2018	<p>Shri Mukesh Shrivastava, counsel for the Appellants.</p> <p>Shri Vaibhav A Goverhdan, Panel Laywer for the State.</p> <p>Heard on I.A No.1/2017, application for suspension of sentence and grant of bail.</p> <p>By the impugned judgment dated 9.11.2017 passed by the Additional Sessions Judge, Bhanuprattapur, District North Bastar, Kanker (CG) in Sessions Trial No.9/2017, the Accused/Appellants stand convicted under Sections 450/34, 506-B/34, 376(D)/34 and 376 2(N)/34 IPC and sentenced to undergo RI for 7 years with fine of Rs.5,000/- each under Section 450/34 IPC, to undergo RI for 5 years with fine of Rs.5,000/- each under Section 506-B/34 IPC, to undergo life imprisonment with fine of Rs.50,000/- each under Sections 376(D)/34 and 376 2(N)/34 on each with usual default stipulations.</p> <p>Learned Counsel for the Appellants submits that there is inordinate delay of about 7 months in lodging the First Information Report. It has been argued that a very improbable story has been put forth by the prosecutrix, where she was being subjected to rape by the Appellants, one after the other, for about 6 months. It has also been argued that the prosecutrix was a major lady and</p>
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considering her statement, either present is case of false implication or consent. Lastly, it has been argued that the Appellants are in jail since last about 2 years, the Appeal is likely to take quite some time for its disposal and therefore, they may be released on bail.

On the other hand, learned State Counsel opposes the bail application. We have heard learned counsel for the parties.

Considering the totality of the facts and circumstances of the case, in particular, the statement of the prosecutrix and the inordinate delay in lodging the FIR, without further commenting on merits, we are of the opinion that present is a fit case to suspend the jail sentence imposed upon the Appellants.

Accordingly, IA No.1/2017 is allowed.

It is directed that the jail sentence imposed upon the Appellants shall remain suspended during the pendency of this Appeal and they shall be released on bail on his furnishing a personal bond in the sum of Rs.2,00,000/- with one surety each in the like sum to the satisfaction of the trial Court. The Appellants need not give appearance anywhere until and unless otherwise directed.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Sanjay Agrawal)
JUDGE