

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7979 of 2016

- Prem Shankar Kaiwartya S/o Mana Ram Kaiwartya Aged About 27 Years R/o Village Borsi, Police Station Kasdol, District Balodabazar- Bhatapara, Chhattisgarh, At Present R/o Devar Basti, Premnagar, Mova, Raipur, District Raipur, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station City Kotwali Balodabazar, District Balodabazar- Bhatapara, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Yogesh Chandra Advocate

For Respondent/State : Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-12-2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 6-5-2016 in connection with Crime No. 161 of 2016, registered at Police Station City Kotwali, Balodabazar, District Balodabazar – Bhatapara (CG) for the offence punishable under Sections 363 & 364 (A) of the IPC. First bail application was dismissed on merit on 15-9-2016.
2. As per the prosecution case, on 15-5-2016 a boy named Nikhil @ Nishant Manikpuri was abducted who is 6 years of age and subsequently, the wife of the complainant received a phone call wherein Rs.5 lakhs was demanded. It is alleged that the present applicant has conspired with the other co-accused and sent one Uday Sarkar to bring the boy and the boy was brought by the other co-accused. Subsequently, after recovery and investigation, it was found that the applicant has p[rovided the SIM and in connivance with the other co-accused has committed the crime.

3. Learned counsel appearing for the applicant would submit that the victim Nishant Manikpur, who was abducted in this case, has been examined and he has identified the present applicant as Uday Sarkar. Neither present applicant has been named nor any evidence is existing against the present applicant, therefore, he may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail and would submit that out of total 26 witnesses only 14 witnesses have been examined and remaining 12 witnesses are still to be examined.
5. Perused the case diary and the documents annexed to the bail application. It appears that out of 26 witnesses, 14 have been examined and remaining 12 witnesses are still to be examined.
6. Considering the development in this case and further considering the fact that out of total 26 witnesses 14 have been examined and remaining 12 witnesses are still to be examined and also the fact that earlier bail application was dismissed on merit on 15-9-2016, only by picking up the statement of the boy who is said to be six years old, It would not be appropriate for this court to go into merits of the case for consideration of bail at this stage as it would amount to usurping the power of trial Court. It is for the trial Court to adjudicate the entire evidence after statements of all the entire witnesses are recorded before it.
7. In view of this, I am not inclined to allow the second bail application. Accordingly, it is rejected.

Sd/-
(Goutam Bhaduri)
Judge

