

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 4165 of 2017**

1. Abdul Sattar @ Chunna S/o Abdul Rahoof Aged About 40 Year,
  2. Abdul Jabbar S/o Abdul Gafoor Aged About 60 Year,
- Both R/o Chakradhar Nagar, Raigarh, Dist. Raigarh (Chhattisgarh)

**---- Applicants**

**Versus**

State Of Chhattisgarh Through : Police Station Tumgaon, District  
Mahasamund (Chhattisgarh)

**---- Respondent**

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For applicants – Miss. Sharmila Singhai, Advocate.  
For Respondent/State – Shri Anupam Dubey, Dy.G.A.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**11/08/2017**

1. The applicants have preferred this application for grant of bail as they are arrested in connection with Crime No. 87/2009 registered in Police Station Tumgaon, Distt. Mahasamund (C.G.) for offence punishable under Section 365/34 of Indian Penal Code.
2. As per the prosecution case, a report was made by Israr Ali on 11/02/2009 who was resident of U.P. It was alleged that from 21/09/2008 his son Maiku @ Najeer Ahmed was missing. It is case of the prosecution that Maiku was working with one Munna and Chunna Kabadi @ Abdul Sattar and they were involved in some illegal activities. Subsequently, Maiku @ Najeer Ahmed left such company and thereby Abdul Sattar @ Chunna was pressurizing him to join back which led into dispute and Maiku @ Najeer Ahmed was assaulted. Subsequently at some point of time thereafter his father Israr Ali came to Raipur and intervened wherein Abdul Sattar, Abdul

Jabbar alongwith other co-accused has interacted to have settled the dispute. Subsequently, while Maiku was going to again join them and while he was at Mahasamund, he went alongwith applicants and others which was seen by Ramjan Ali and Muktaruddin near Saraipali while he was going in Bolero Car. Thereafter, Maiku was missing his whereabouts were not known. His father subsequently who was resident of UP filed an FIR on 11/02/2009. Thereafter, investigation started.

3. Learned counsel for the applicants would submit that initially present applicants have been falsely implicated and she referred to Annexure A-3 and would submit that investigation was carried out by the Superintendent of Police and it was found that Maiku @ Najeer Ahmed was not kidnapped on 21/09/2008. It is further submitted that thereby no evidence is existing against the applicants. Further it is submitted that Habeas Corpus was filed by the complainant wherein with certain direction the High Court disposed of the petition and even after that involvement of the applicants could not come to fore to involve them in the crime. Thereby, offence has not been committed. It is submitted that out of 12 accused 5 have been released under Section 436 (7) of Cr.P.C. and the applicants who have been arrested on 14/05/2017 as no evidence is existing, they may be released on bail.

4. Learned State counsel opposes the prayer for grant of bail and he went through the statement of Ramjan Ali, Muktaruddin, Elena Kerketta, Israr Ali father of the missing Maiku and would submit that involvement of the applicants have been established, therefore applicants may not be released on bail.

5. Perused the documents, statement of Israr Ali father, Ramjan Ali, Muktaruddin and Elena Kerketta. Ramjan Ali and Muktaruddin have stated about presence of both the applicants and had stated to be last seen on

21/09/2008 Maiku alongwith other co-accused and these applicants. They were seen near Saraipali while they were going in Bolero Car since both of them have stopped the car and interacted. Statement of Israr Ali, the father would show that after son complained that he was assaulted by the applicants he went to Raipur, thereafter intervened to settle the issue and the dispute was said to have been settled. Report of the Superintendent of Police, Mahasamund dated 7/01/2010 which is filed as Annexure A-3 records that on 11/10/2008 a report was made by Ku. Elena Kerketta that on that date i.e. after date of missing of Maiku on 21/09/2008 that Maiku had abused in intoxicated condition. The said report was recorded in rojnamcha sanha. Thereafter on the basis of such report during enquiry finding was given that Maiku was not abducted as his presence was shown. As against this statement of Elena Kerketta, the alleged persons who reported the incident against Maiku would show that she had not made any report on 11/10/2008 before Police Station and no affidavit has ever been given and she was pressurized by one of the co-accused Munna and got the affidavit signed in haste. Consequently, report of the Superintendent of Police, Mahasamund appears to be without much application of mind and as appears to show presence of Maiku a false report was made against Maiku, the missing person. Considering the statement of Israr Ali father, Ramjan Ali, Muktarruddin and Elena Kerketta, this Court is not inclined to release the applicants on bail as appears there are chances of creating evidence and tampering of evidence.

6. Accordingly, the bail application is dismissed.

Sd/-  
(Goutam Bhaduri)  
JUDGE