

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1781 of 2018

- Anil Kumar Pathe S/o Ramsundar Pathe, Aged About 25 Years (wrongly mentioned as Pandey in impugned cause title), R/o Karhi, Thana Mungeli, District Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station Incharge, Sarkanda, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Anumeh Shrivastava, Advocate.

For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-04-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 01-05-2017 in connection with Crime No.292/2017 registered at P.S. - Sarkanda, District Bilaspur, Chhattisgarh for the offence under Section 363, 364-A, 365, 368, 120(b), 34 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 01-05-2017. Charge sheet has been filed after completion of the investigation. No case is made out against this applicant. It is further submitted that victims in this case namely, Harsh Kesharwani and Vikki Kesharwani have been examined before the trial Court and although these victims have deposed before the Court, that this applicant was accompanying the other abductors, but he helped the abducted children in escaping and getting back to their home. Hence, on this basis it is prayed that this applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that this applicant has directly involved in the act of abduction of

the minor children. As the pressure of police mounted, this applicant and one other panicked and because of that, they released the children from their custody. Hence, no case is made out for grant of bail.

4. Heard learned counsel for both the parties and perused the case diary.

5. According to the prosecution case, on the date of incident Harsh Kesharwani aged about 13 years and Vikki Kesharwani aged about 11 years were abducted from school by the main accused Akash Yadav in a vehicle and in between the abducted children were handed over to three co-accused persons. Later on, when the abducted children by themselves arrived at home and on the basis of statement given by them, offences have been registered against this applicant and other co-accused persons.

6. Considered on the submissions made and the contents of the case diary. Upon perusal of the certified copy of the deposition before the Court given by victims Harsh Kesharwani and Vikki Kesharwani, there is specific mention that this applicant and one another helped both the children in their rescue, although there is evidence that he was involved at the time of abduction of the same victims, it is the prosecution case that this applicant is one of the abductors. Thus, looking to the change in circumstances that appears to be in favour of this applicant and the facts that he has no criminal antecedent and he is local resident of District Mungeli, I am of this opinion that this applicant should be released on bail during pendency of the trial against him.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil