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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6970 of 2017**

Abdul Sami Khan S/o Abdul Kadim Khan Aged About 38 Years R/o Jai Jawan Society, Wanwadi Police Station Wanwadi District Pune M. H. Wrongly Mentioned As Jai Jawan Society Banodi Police Station Vanvedi District Pune M. H. Presently R/o Mukam Boriyakala Housing Board Colony , House No. R/ Wood / 110 , Police Station Sejbahar, District Raipur Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The District Magistrate Raipur District Raipur Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 2623 Of 2018**

Aboni @ Abon S/o Anil Mistri Aged About 27 Years R/o- Kishak Nagar Bandhe, 102, P.S. Bandhe District- Kanker, Chhattisgarh. Presently R/o- Tamri Basti, Near Cooler Factory Of Renjeet Mandal P.S. Mana, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through- The District Magistrate, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For the Applicants : Shri Kshitij Sharma, Advocate.
For the Respondent/State : Shri Neeraj Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.06.2018**

- Both these applications are being decided by a common order as they arise from the similar matter. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to them who have been arrested in connection with Crime No.89 of 2017, registered at Police Station Dindayal Upadhyay Nagar, District – Raipur, Chhattisgarh for the offence punishable under Sections

364A, 120B, 342 and 323 readwith Section 34 of the Indian Penal Code and Sections 25 and 27 of the Arms Act.

2. Learned counsel for the applicants submits that the applicants in both the cases are in jail since 18.3.2017 and have been falsely implicated in these cases. No offence is made out against the applicants. The complainant and the victim in these cases have been examined before the trial Court. According to the statement given by them, unbelievable story of the incident has been placed by them before the Court. Applicant – Aboni @ Abon in M.Cr.C. No. 2623 of 2018 had no role to play in the offence committed as alleged. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that the diary statement of the witnesses is clearly against the applicants. Even, the Court statements of the main witnesses are to be appreciated and finding is to be given by the trial Court. Hence, for these reasons, none of the applicants deserves to be enlarged on bail.

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

5. According to the prosecution case, victim – Sushil Gupta was abducted by Vivek Agrawal and applicant – Abdul Sami Khan and he was kept in confinement at one place. The diary statement shows that the applicant – Aboni @ Abon was present in the place of confinement and he was instructed to guard the victim. Hence, this case.

6. Considered the entire material present in the case-diary. The statement before the trial Court cannot be shifted and vague for granting bail and according to the diary statement of the witnesses no case is made out in favour of applicant - Abdul Sami Khan in M.Cr.C. No. 6970 of 2017. After due consideration, it appears that applicant – Aboni @ Abon had a limited role to play and he does not appear to be the main accused. Hence, the application filed by applicant – Aboni @ Abon in M.Cr.C. No. 2623 of 2018 is allowed.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. of applicant – Abdul Sami Khan in M.Cr.C. No. 6970 of 2017 is rejected and that of applicant – Aboni @ Abon in M.Cr.C. No. 2623 of 2018 is allowed.

8. It is directed that applicant – Aboni @ Abon in M.Cr.C. No. 2623 of 2018 shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge