

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 1493 of 2019**

- Jaylal Bariha S/o Shobharam, Aged About 22 Years, R/o Village Lukapara, Police Station Saraipali, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

**---- Applicant**

**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Saraipali, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

**----Non-applicant**

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For Applicant – Shri Vikash Pradhan, Advocate.

For Non-applicant/State – Shri Rahim Ubwani, Panel Lawyer.

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

**Order on Board**

**29-03-2019**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second application before this Court filed by the applicant for grant of regular bail. His first bail application, MCRC No.4889 of 2018, was dismissed as withdrawn with liberty to revive the same after examination of the prosecutrix. The applicant has been arrested on 12-05-2018 in connection with Crime No.288/2016 registered at P.S. - Saraipali, District- Mahasamund, Chhattisgarh for the offence under Section 363, 376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant in this second application that the trial has not made progress and the prosecutrix has not been examined so far because of her unavailability, which is reflected from the order sheets filed along with the application. Parents of the prosecutrix, Abhimanyu Mahapatro (PW-1) and Yashobanti Mahapatro (PW-2) who have been examined, have not made any statement against the applicant. Therefore, it is prayed that under these circumstances the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that according to the statement given by the prosecutrix under Section 161 and 164 of the Cr.P.C., she was abducted, kept in confinement and raped by this applicant, therefore, the applicant is not entitled for grant of regular bail.

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

5. As per the prosecution case, when the prosecutrix had been to visit a fair the applicant with the help of other persons forcefully and took her to his place where he kept her in confinement and bondage and during this confinement it is alleged that this applicant raped her twice before she was recovered from his possession.

6. After considering on the material present in the case diary, I do not feel inclined to allow this application.

7. Consequently, the application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

Sd/-

**(Rajendra Chandra Singh Samant)**  
**Judge**