

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4964 of 2019

1. Bharat, S/o Dhansingh, Aged About 28 Years, R/o Village Ghutra Para, Rohulu, Kachchhar, P.S. Manendragarh, District-Koriya, Baikunthpur, Chhattisgarh.
2. Anil Baland, S/o Dharampal, Aged About 21 Years, R/o Village Pendri Para, Dabra Kachchhar, P.S.-Manendragarh, District-Koriya, Baikunthpur, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station Manendragarh, District-Koriya, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pushkar Sinha, Advocate.
For Respondent	:	Mr. Devendra Pratap Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

18/10/2019

1. Learned counsel for the applicant No.1 seeks permission of this Court to withdraw his application filed under Section 438 of Cr.P.C.
2. Accordingly, the bail application filed under Section 438 of Cr.P.C is dismissed as withdrawn.
3. This is the second bail application filed by the applicant No.2 under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No.662 of 2018 vide order dated 06.04.2018 was dismissed for want of prosecution.
4. This bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.307/2017 registered at Police

Station–Manendragarh, District–Koriya(C.G.) for the offence punishable under Sections 363, 366, 376, 376(2)(n), 376(d), 506, 450, 34 of the Indian Penal Code & 6 of POCSO Act and 3(2)(5) of Atrocities Act.

5. It is submitted by the learned counsel for the applicant that applicant No.2 has been falsely implicated in this case. Applicant No.2 has not committed any offence. The prosecutrix No.1, who had alleged rape against this applicant and has not supported the prosecution case whereas the prosecutrix No.2 has made a statement against this applicant which is of no consequence as the prosecutrix No.1 herself has not supported the case. This applicant is in jail since two years, hence, it is prayed that the applicant No.2 be granted regular bail.
6. Learned State counsel opposes the application and submissions made in this respect. It is submitted that looking to the statement of prosecutrix No.2, it cannot be said that there is no evidence against this applicant, therefore, his application be rejected.
7. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
8. According to the prosecution case, on the date of incident, this applicant and applicant No.1 abducted both the prosecutrix by putting them under threat and took them to a jungle where another co-accused Balendra was present. It is alleged that this applicant raped prosecutrix No.1 whereas the other two accused persons raped the prosecutrix No.2.
9. Considering that the prosecutrix No.1 has not given any statement against this applicant and she is a hostile witness, therefore, the relevance of the statement given by prosecutrix No.2 against this

applicant needs to be appreciated by the trial Court and also for the reason that the applicant is in jail since two years, therefore, I feel inclined to allow the application of applicant No.2.

10. Accordingly, the bail application filed under Section 439 of the Cr.P.C. are allowed. It is directed that applicants shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha