

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 5178 of 2019**

- Mukesh Nirmalkar, S/o Bharat Nirmalkar, Aged About 30 Years, R/o Village – Bamhani, Police Station - Kawardham (Wrongly Mentioned As Kamwardha), District-Kabirdham, Chhat.

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through - Station House Officer, Police Station Kawardha, District Kabirdham Chhattisgarh,

**---- Respondent**

**MCRC No. 5213 of 2019**

1. Ashwan Sahu, S/o Raamsingh Sahu Aged About 23 Years R/o Village Katori Police Station Singhanpuri Jangal District Kabirdham Chhattisgarh.
2. Chhabilal Janghel Ajuram Janghel Aged About 24 Years R/o Village Katori Police Station Singhanpuri Jangal District Kabirdham Chhattisgarh.
3. Itwri Janghel S/o Munim Janghel Aged About 30 Years R/o Ward No. 6, Tulsi Tilda Nevra District Raipur, Chhattisgarh.
4. Sunit Kumar Patel S/o Siyaram Patel Aged About 18 Years R/o Village Pawantara, Police Station Singhanpuri, Jangal, Tahsil Sahaspur, Lohara, District Kabirdham Chhattisgarh. (Name Of The Applicant Is Not Printed In The Cause Title Of The Order Sheet But Order Was Passed), District : Kawardha (Kabirdham), Chhattisgarh

**---- Applicants**

**Versus**

- State of Chhattisgarh Through Station House Officer, Police-Station-Kawardha, District-Kabirdham, Chhattisgarh.

**---- Respondent**

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For Applicant : Mr. Dharmesh Srivastava, Advocate.  
For Respondent : Mr. Arijit Tiwari, Panel Lawyer.

For Objector : Mr. Samir Singh, Advocate.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**  
**Order On Board**

**18/09/2019**

1. Learned counsel for applicant No.1(Ashwan Sahu) in MCRC NO.5213 of 2019 seeks permission of this Court to withdraw his application filed under Section 439 of Cr.P.C with liberty to revive the same after examination of the prosecutrix.
2. Accordingly, the bail application filed under Section 439 of Cr.P.C is dismissed as withdrawn with the aforesaid liberty.
3. Both these applications filed under Section 439 of the Code of Criminal Procedure, 1973 are the first bail applications on behalf of the rest of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.317/2019 registered at Police Station-Kawardha, District – Kabirdham(C.G.) for the offences punishable under Sections 363, 366, 376, 368, 34 of Indian Penal Code (for short 'IPC') and Section 3, 4 of Protection of Children from Sexual Offences Act, 2012.
4. Learned counsel for the applicants submits that applicants are innocent and have been falsely implicated in this case. These applicants have not committed any offence. They have been falsely implicated. The only statement of the prosecutrix is this, that the shop of the co-accused Mukesh Nirmalkar was used by the main accused persons where the applicants themselves were not present and apart from that there is no statement regarding their participation, hence, it is prayed that they may be released on regular bail.
5. Learned counsel for the respondent/State opposes the applications and submissions made in this respect.

6. Learned counsel for the Objector after adopting arguments advanced by State counsel submitted that these applicants have also actively supported the commission of offence, therefore, they are not entitled for grant of regular bail.
7. Heard both the parties and perused the case diary.
8. According to prosecution case, the minor prosecutrix was abducted by the co-accused Ashwan Sahu with the help of Sunit Kumar Patel and other accused persons and thereafter she was taken to the shop of applicant Sunit Patel where she was raped by co-accused Ashwan Sahu. Thereafter, the prosecutrix was further taken to another place and raped again.
9. As the only allegation against these applicants is regarding providing the shop and helping the main accused for the commission of offence. Charge-sheet has been filed. For this reason, I feel inclined to allow the application of rest of the applicants.
10. Accordingly, the bail applications of applicants are allowed. It is directed that applicants shall be released on bail on their 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 their appearance as and when directed.

Sd/-

**(Rajendra Chandra Singh Samant)**  
Judge