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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6658 of 2020**

Birju Nayak, S/o. Shri Panchram Nayak, aged about 22 years, R/o. Village-
Thakurdiya, P.S. Pithora, District- Mahasamund, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Sankara, District-
Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Surfaraj Khan, Advocate

For Respondent/State : Mr. Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/10/2020**

1. This is the first 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.98/2020, registered at Police Station – Sankara, District – Mahasamund (C.G.) for the offence punishable under Section 363, 366 & 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. There is no allegation regarding commission of offence of rape against this applicant and he has only helped the main accused and therefore, he has been falsely implicated in this case. It is submitted that the diary statement of the witnesses are contradictory to each other. Statement

has been recorded of the prosecutrix, who is deaf and dumb, in which she has mentioned about the presence of the applicant throughout from kidnapping and offence of rape, whereas the eye-witness Rajkumar has stated that he found the prosecutrix alone with co-accused Puran Nayak and similar is the statement of another witness Dhaneshwari Sidar, who used to facilitate the meeting of the co-accused Puran Nayak and the prosecutrix, therefore, story of the prosecution is improbable. Hence, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix is deaf and dumb and her statement has been recorded with the help of interpreter and she has made clear allegation against this applicant regarding his role in commission of offence, therefore, the applicant has actively participated in the commission of offence, who has also been identified in the test identification parade by the victim. Hence, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, it is alleged that the co-accused Puran Nayak with the help of this applicant abducted the minor prosecutrix, who was taken to Jungle, where she was ravished by the co-accused Puran Nayak and the prosecutrix was tied to tree and she was left there by the applicant and co-accused persons until she was recovered by her father and the police.

6. Considered on the submissions and also the diary statement given by the prosecutrix and other witnesses. It appears that the statements are not uniform in nature and further looking to the role of this applicant being limited to give assistance in abduction of the prosecutrix, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge