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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3854 of 2021**

Praveen Yadav, S/o. Shatrughan Yadav, aged about 19 years, R/o. Village Avrethi, Police Station - Simga, District Balodabazar (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh, Through : Police Station - Komakhan, District Mahasamund (Chhattisgarh).

---- Respondent**M.CR.C. No. 3986 of 2021**

Tupesh Miri, S/o. Late Roopchand Miri, aged about 28 years, R/o. Village Avrethi, Police Station - Simga, District – Balodabazar, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Komakhan, District Mahasamund (Chhattisgarh).

---- Respondent**AND****M.CR.C. No. 4106 of 2021**

Permanand Miri, S/o. Prem Miri, aged about 19 years, R/o. Village Avrethi, Police Station - Simga, District – Baldoabazar (Now Balodabazar-Bhatapara) Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Komakhan, District Mahasamund (Chhattisgarh).

---- Respondent

For Applicant : Mr. Shubhank Tiwari, Advocate
(in M.Cr.C. No.3854 of 2021)

For Applicant : Mr. Atanu Ghosh, Advocate
(in M.Cr.C. No.3986 of 2021)

For Applicant : Mr. Shivendu Pandya, Advocate
(in M.Cr.C. No.4106 of 2021)

For Respondent/State : Mr. Anil Tripathi, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/07/2021

1. All the bail applications are heard and decided together by this common order as they are arising out of the same crime number and incident.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.40/2021, registered at Police Station – Komakhan, District Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n), 34 of the Indian Penal Code and Section 6, 17, 19 & 21 of the POCSO Act.
3. It is submitted by the learned counsel for the applicant (in M.Cr.C. No.3854 of 2021) that the applicant has been falsely implicated in this case. He has not committed any offence. His name is not reflected in the statement of the prosecutrix. One of the co-accused Sanjay Sahu has been granted bail by the trial Court and the applicant is also similarly placed. Hence, it is prayed that the applicant may be enlarged on regular bail.
4. It is submitted by the learned counsel for the applicant (in M.Cr.C. No.3986 of 2021) that the applicant is also similarly placed to the accused Praveen Yadav and Sanjay Sahu. Hence, it is prayed that the applicant (in M.Cr.C. No. 3986 of 2021) may also be enlarged on regular bail.
5. It is submitted by the learned counsel for the applicant (in M.Cr.C. No. 4106 of 2021) that the applicant has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of

Cr.P.C. itself shows that there had been an affair and the prosecutrix has willingly left, resided with the applicant and submitted herself for physical relation. The ground of minority of the prosecutrix is subject to challenge in the trial. Hence, it is prayed that the applicant may be enlarged on regular bail.

6. On the other hand, learned counsel for the State opposes the bail applications and the submissions made in this respect. It is submitted that the prosecutrix was minor on the date of incident, therefore, she was not capable of giving consent for physical relation. The Statement of the prosecutrix under Section 164 of Cr.P.C. is clearly against the applicant Permanand Miri and other applicants have actively participated and assisted in the abduction of the minor prosecutrix, therefore, none of the applicants are entitled for grant of bail.
7. Prosecutrix is present virtually before this Court on notice through the Help Desk of District Legal Services Authority, Mahasamund she has objection in grant of bail to the applicants.
8. I have heard the learned counsel for both the parties and perused the case diary.
9. According to the prosecution case, the applicant Permanand Miri and the prosecutrix were known to each other. It is alleged that on the date of incident, the applicant- Permanand Miri allured the minor prosecutrix with promise to marry her and then with the help of applicants – Praveen Yadav, Tupesh Miri and one another, he abducted her and took her to the place of his maternal uncle, where he resided for two days, during which, he had physical relation with the

minor prosecutrix.

10. Considered on the submissions. After taking into consideration the statement of the prosecutrix recorded under Section 164 of Cr.P.C. and other facts and circumstances present, this Court is of the opinion that present is a fit case, in which, the applicants should be enlarged on regular bail.
11. Accordingly, all the bail applications filed under Section 439 of the Cr.P.C. are allowed.
12. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge