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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 9422 of 2020**

Mohit Gendre S/o Jivan Gendra Aged About 19 Years R/o Village Tipni,
Police Station Thankhamhariya, District Bemetara Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer Police Station
Thankhamhariya , District Bemetara Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 9141 of 2020**

1. Tarachand Markande And Another S/o Rohit Markande, Aged About 23 Years R/o Village Tipni, Police Station Than Khamhariya, District Bemetara Chhattisgarh.
2. Harishchand Markande S/o Rohit Markande, Aged About 20 Years R/o Village Tipni, Police Station Than Khamhariya, District Bemetara Chhattisgarh.

---- Applicants**Vs**

State Of Chhattisgarh Through Station House Officer, Police Station Than
Khamhariya, District Bemetara Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Suresh Kumar Verma and Shri Rajkumar Pali, Advocates.
For the Respondent/State	:	Shri B.P. Banjare, G.A. and Shri Jitendra Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.02.2021**

1. Both these applications are decided by a common order as they arise from the similar matter. These are the first bail applications of the applicants 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.173 of 2020, registered at Police Station Than Khamhariya, District

Bemetara, Chhattisgarh for the offence punishable under Sections 327, 328, 506, 450, 376(3) and 109 of the Indian Penal Code and Section 5 (tha)/ 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicants submit that the applicants in both the cases are in jail since 21.11.2020 and they have been falsely implicated in this case. There is no allegation against these applicants regarding the commission of offence of rape. These applicants were only seen present by the prosecutrix, therefore, she named and falsely implicated them. There is no case against these applicants. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsels for the State oppose the bail applications and the arguments submitted in this respect. It is submitted that there is clear statement of the prosecutrix alleging that both these applicants actively assisted the main accused in the commission of offence of rape. Hence, it is prayed that the applicants are not entitled for grant of bail.

4. In M.Cr.C. No. 9422 of 2020, the complainant who had appeared before this Court on 27.1.2021 objected for grant of bail to the applicant. As there is no specific allegation of rape against these applicants, there is no specific requirement for compliance under Section 439(1A) of the Cr.P.C.

5. Heard counsel for both the parties and perused the case diary.

6. The case of the prosecution is that the minor prosecutrix of age below 15 years was abducted by the main accused, namely, Azhar Chelak in which it is alleged that these applicants and others helped the prosecutrix to climb down from her house through a ladder to meet with the main accused and come back. The other allegations are against main accused – Azhar Chelak regarding the commission of offence of rape, threatening her etc.

7. Considering the submissions and looking to the nature of allegation that is present against these applicants, I feel inclined to grant regular bail to the applicants.

8. It is directed that the applicants in both the cases shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- in respect of each crime with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge