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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.CR.C. No. 1115 of 2020**

Chhabilal Kaiwartya, (wrongly mentioned as Yadav in the impugned order), S/o, Purushottam Kaiwartya, aged about 23 years, R/o. Gatadih, P.S. Sarsiwa, District Baoda Bazar -Bhatapara Chhattisgarh.

---- Applicant

**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarsiwa, District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondent

**M.CR.C. No. 1560 of 2020**

Yogesh Kumar Sahu, S/o. Ghanshaym Prasad Sahu, aged about 26 years, R/o. Village Khamhariya, P. S. Sarsiwa, District Baloda Bazar-Bhatapara Chhattisgarh.

---- Applicant

**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarsiwa, District Balodabazar Bhatapara Chhattisgarh.

---- Respondent

**M.CR.C. No. 1463 of 2020**

1. Jitendra Manikpuri, S/o. Chaitudas Manikpuri, aged about 24 years, R/o. Village Bendua
2. Pradeep Kumar Ajay, S/o. Late Malikram, aged about 29 years, R/o. Village Pipardula

Both are Police Station Sarsiwa, Balodabazar, District Balodabazar Bhatapara Chhattisgarh.

---- Applicants

**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarsiwa, District Balodabazar Bhatapara Chhattisgarh.

---- Respondent

**M.CR.C. No. 1585 of 2020**

1. Nageshwar Patel, S/o. Mahesh Ram, aged about 25 years,

2. Nand Lal Yadav, S/o. Ghasiya, aged about 28 years,  
Both are R/o. Village Dhobani, P.S. Sarsiwa, District Baloda  
Bazar Bhatapara, C.G.

---- Applicants

**Versus**

State Of Chhattisgarh, Through- Station House Officer, Police Station  
Sarsiwa, District Baloda Bazar Bhatapara, C.G.

---- Respondent

**AND**

**M.CR.C. No. 753 of 2020**

Ishwar Yadav, S/o. Firatram Yadav, aged about 26 years, R/o. Village  
Gopalpur, Police Station Sarsinwa, District Baloda Bazar Bhatapara  
Chhattisgarh.

---- Applicant

**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station  
Sarsiwa, District Balodabazar Bhatapara Chhattisgarh.

---- Respondent

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For Applicant (In M.Cr.C. No.1115 of 2020)	: Mr. C.R. Sahu, Advocate
For Applicant (In M.Cr.C. No.1560 of 2020)	: Mr. Amiyakant Tiwari, Advocate
For Applicants (In M.Cr.C. No.1463 of 2020)	: Mr. Dharmesh Shrivastava, Advocate
For Applicants (In M.Cr.C. No.1585 of 2020)	: Mr. Santosh Sahu, Advocate
For Applicant (In M.Cr.C. No.753 of 2020)	: Mr. Kishore Narayan, Advocate
For Respondent/State	: Mr. Adil Minhaj, G.A.

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

**Order On Board**

**30/06/2020**

1. All the above 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.405/2019, registered at Police Station – Sarsiwa, District – Baloda Bazar - Bhatapara (C.G.) for the offence punishable under Section 363, 366, 376-D of the Indian Penal Code and Section 4 & 6 of POCSO Act, 2012.
3. It is submitted by the learned counsel for the applicant - Chhabilal (in M.Cr.C. No.1115/2020) that the applicant has been falsely implicated in this case. It is further submitted that there is no allegation made by the prosecutrix in her statement. 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.1560/2020) that this applicant has been falsely implicated in this case. The statement that has been given by the prosecutrix against this applicant has been contradicted by other witnesses namely Varsha Miri, who is victim in another case. Similarly, the

mother of the victim has been examined in the trial and she has not made any allegation against this applicant. Hence, it is prayed that the applicant may be enlarged on bail.

5. It is submitted by the learned counsel for the applicants (in M.Cr.C. No.1463/2020) that they have been falsely implicated in this case. The FIR in this case is delayed and also the prosecutrix and other witness have made improvement in their statement. It is further submitted that there is no allegation of rape against the applicant No.1 - Jitendra Manikpuri (in M.Cr.C. No.1463/2020) and only charge framed against him is under Section 366 of I.P.C., which shows that he has not participated in the commission of offence with other co-accused. Hence, it is prayed that the applicants may be enlarged on regular bail.
6. Learned counsel appearing on behalf of the applicants (in M.Cr.C. No.1585/2020) adopted the arguments advanced on behalf of the applicant in M.Cr.C. No.1560 of 2020 and submits that case against him is concocted. Hence, it is prayed that the applicants may be enlarged on regular bail.
7. Counsel for the applicant (in M.Cr.C. No.753/2020) submits that statement of the witnesses show that this applicant has not

participated in the commission of offence of rape and the applicant has been falsely implicated in this case. Hence, it is prayed that the applicant may be enlarged on regular bail.

8. On the other hand, learned counsel for the State opposes the bail application and submits that the age of the minor victim in this case is only 14 years, who has made categorical statement against all the accused persons. Therefore, none of the applicants are entitled for grant of bail.
9. The victim is present along with her father before this Virtual Court, through help desk of the High Court. Statement has been made that there is no objection in grant of bail to the applicant – Chhabilal and Yogesh, however, the application for grant of bail by the other applicants is opposed.
10. I have heard the learned counsel for both the parties and perused the case diary.
11. According to the prosecution case, the complainant Sant Ram Sahu has lodged FIR on 05.12.2019 stating that his minor daughter aged about 15 years is missing from 02.12.2019. The minor prosecutrix was recovered on 07.12.2019. The prosecutrix gave statement under Section 161 of Cr.P.C. on 02.12.2019 that

after her abduction she was raped by Nageshwar Patel, Chhabilal and Nandlal. Subsequent to which Dayaram Ratre also raped her. On 03.12.2019 she and her friend both were raped by the applicant Pradeep. In the night of same day, the prosecutrix was raped by Satyanarayan Banjare @ Satya. She along with her friend was taken to New Delhi subsequent to which, she and her friend both came back and the police recovered her. The victim has named applicant – Jintendra Manikpuri in her statement under Section 164 of Cr.P.C. but has not mentioned about participation in commission of offence, however, she has named the applicant Yogesh, Ishwar, who participated with other co-accused persons in the commission of offence of rape.

12. Considered on the submission made by the counsel for both the sides. The allegation is of serious nature regarding commission of offence of gang rape and abduction. The contradiction, omission and improvement whatever pointed out can be considered by the trial Court in trial to give credit or discredit of any witnesses, which can not be done at the state of considering bail application, therefore, this Court is of the view that the applicant(s) (in M.Cr.C.No.1115/2020, M.Cr.C. No.1560/2020, M.Cr.C. No.1585/2020, M.Cr.C. No.753/2020 and the applicant

No.2 in M.Cr.C. No. 1463/2020) are not entitled for grant of bail.

However, looking to the facts and circumstances that are present against the applicant No.1 Jitendra Manikpuri (in M.Cr.C. No.1463/2020), I am inclined to grant bail to the applicant No.1– Jintendra Manikpuri (in M.Cr.C. No.1463/2020)

13. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. bearing M.Cr.C. No.1115/2020, M.Cr.C. No.1560/2020, M.Cr.C. No.1585/2020, M.Cr.C. No.753/2020 and in respect of the applicant No.2 in M.Cr.C. No.1463/2020) are rejected and the bail application of the applicant No.1 - Jintendra Manikpuri (in M.Cr.C. No.1463/2020) is allowed.
14. It is directed that applicant No.1 – Jintendra Manikpuri (in M.Cr.C. No.1463/2020) 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