

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1787 of 2017

1. Homeshwar @ Pintu Sahu S/o Late Chhediram Sahu, Aged About 19 Years, R/o Village Pendarkapa, Police Station Mungeli, District Mungeli Chhattisgarh

---- Applicant

Versus

1. State of Chhattisgarh Through Station House Officer, Police of Police Station Kotwali, Mungeli, District Bilaspur now Mungeli Chhattisgarh

---- Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

17-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant is arrested in connection with Crime No. 499/16 by P.S. Kotwali, Mungeli, Civil District Bilaspur, C.G. for the offence under Section 354, 323, 452 of the IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act) and Section 3(1)(w)(i) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act, 1989') on 27-12-2016. After investigation police had filed the charge sheet before the Special Judge under the Act, 1989 Bilaspur C.G. which is registered as Sessions Trial No.8/2017. The applicant is aged about 19 years at the time of incident. He is the first offender. He is in jail for about 4 months. He will not commit any offence in future. He may be granted one opportunity to remain in bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that the prosecutrix is aged about 14 years and the present applicant committed house

trespass of a neighbour and thereafter used criminal force to outrage modesty of the prosecutrix, also committed *marpeet*, when the prosecutrix raised alarm her brother came then only the prosecutrix was saved. Looking to the entire conduct, the bail application may be dismissed.

4. Perused the entire material.

5. In the present matter, the accused is in jail for about 4 months (just 6 days short), he is aged about 19 years just a year above of his majority, he is first offender, no any earlier criminal antecedent reported and as submitted he will not commit any offence in future; police had completed the investigation, disposal of the matter may take some time, upon due consideration, I am inclined to grant one opportunity to the applicant. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the Special Judge under the Act, 1989 Bilaspur, C.G. for his appearance before the said trial Court as and when directed.

6. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE