

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2378 of 2017**

1. Holsay, S/o Sukhram, Aged About 21 Years, Caste Rajwar, R/o Village Parsurampur, Police Station & Tehsil Ramanujnagar, District Surajpur, Chhattisgarh.
2. Ramesh, S/o Fulchand, Aged About 20 Years, Caste - Gond R/o Village Parsurampur, Police Station & Tehsil Ramanujnagar, District Surajpur, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer Ramanujnagar, District Surajpur Chhattisgarh.

---- Respondent

For Applicant : Shri Surfaraj Khan, Advocate.
 For Non-applicant/State : Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****07.09.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.11/2017 on 23/02/2017 by Police Station Ramanujnagar, Distt. Surajpur (C.G.) for the offence under Section 341 & 354 of the IPC & under Section 12 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act").

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is pending before the First Additional Session Judge (ASJ) Special Judge under the

Protection of Children from Sexual Offences Act 2012, Surajpur (C.G.) as Special Criminal Case (POCSCO, 2012) No. 22/17. Learned counsel for the applicant would submit that applicants are 21 years and 20 years respectively, as the trial may take some time. As per allegation, on 13/01/2017 at about 4:00pm, when the prosecutrix aged about 15 years were returning with her cousin sister, both the applicants wrongfully restrain the prosecutrix near a nursery and hold the hand of prosecutrix with this outrage the modesty of the prosecutrix by using criminal force. They will not commit any offence in future.

4. Per Contra, learned counsel for the respondent/State opposes the argument advanced on behalf of the applicants on the basis of facts surfaced in the matter, though fairly considered that there is no criminal antecedent of both applicants.

5. Peruse the entire material.

6. As both the applicants are the first offenders and both are in custody since 6 months and 15 days till date, charge sheet has been filed, trial may take some time and as submitted that they will not commit any offence in future and there is no criminal antecedent reported against the applicant, on consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that they shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC allowed

8. The applicants are directed to be released on bail on his furnishing a personal bond in the sum of Rs.30,000/- with one solvent surety of like some amount each to the satisfaction of Trial

Judge, Surajpur (C.G.) for his appearance before the said Court regularly as and when directed by the said Court for their appearance before the said Court regularly as and when directed by the said Court.

9. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; (iv) the trial Court finds that the applicants 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.

10. In addition, the applicants are directed not to communicate/contact in any manner with prosecutrix, her family members and the witnesses cited in the charge-sheet and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing that in any way the applicant directly or indirectly gave pressure for illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to the bench and the concerned trial Court may take the applicant in custody including other measures as provided under the law.

11. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge

Deeptijha