

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2636 of 2017

- Rahul Rajput S/o Yashwant Rajput Aged About 27 Years R/o Shriram Nagar, Kanker, District Uttar Bastar Kanker, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Kanker, District East Bastar Kanker, Chhattisgarh.

MCRC No. 2711 of 2017

- Tinku @ Yameshwar Thakur S/o Karan Singh Thakur, Aged About 26 Years R/o Mahurband Para , Kanker, District- North Bastar Kanker, chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station- Kanker, District- North Bastar Kanker, chhattisgarh.

---- Respondent

For Applicant, Shri Ajay Ayachi, Advocate in MCRC No.2636/2017.
For Applicant, Shri DN Prajapati, Advocate in MCRC No.2711/2017.
For Respondent/State, Shri Neeraj Jain, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

11.5.2017

1. As both the MCRC arise out of the same incident and crime no., hence, they are being disposed of by common order.

2. Heard the matter finally.

3. These are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with crime No.91/2017, registered at Police Station Kanker, Distt. North Bastar, Kanker(CG) for the offence punishable under Sections 454, 354 (D) 427, 294, 506 Part II IPC and Section 11 (iv), 12 of the Protection of Children from Sexual Offences Act, 2012.

4. Learned counsel for the applicants submit that after investigation charge sheet has been filed against both the applicants which is pending before A.S.J. (FTC)/Special Judge, Kanker, District North Bastar, Kanker. The applicant Rahul was arrested on 11.3.2017 and applicant Tinku @ Yameshwar Thakur has been arrested on 30.3.2017. Both the applicants are first offender and they will not commit any offence in future, charge sheet has been filed and trial will take some time, therefore, they may be granted bail during trial. They will abide by the terms and conditions directed by this Court.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that both the applicants constantly followed the prosecutrix/victim name not (mentioned), trespassed in the house of prosecutrix and followed and contacted the prosecutrix by using criminal force with intent to outrage her modesty and used obscene words, gave threat to take life of the

prosecutrix and family members. Though he conceded that there is no earlier criminal antecedent of the applicants.

6. I have heard the counsel appearing for the parties.

7. On due consideration, as the applicant Rahul is in jail since 2 months, and applicant Tinku @ Yameshwar Thakur is in custody since 1 month and 13 days, both are first offender though the act committed by them cannot be held as ordinary act, but as the charge sheet has been filed and trial will take some time, applicants are aged about 26/27 years, I am inclined to grant one last opportunity to the applicants so that they may not commit any offence in future and shall remain in the society peacefully.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.50,000/- and each of them furnishing two sureties of Rs.25,000/- each to the satisfaction of the A.S.J.(FTC)/Special Judge, Kanker, District North Bastar Kanker (CG) for their appearance before the said trial Court as and when directed till trial.

10. 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 do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above , the Court below may proceed further under the provisions of law, under intimation.

11. The applicants are further directed that till trial they shall not enter the residential area where the prosecutrix is residing i.e. Aamapara Kanker. If any of the applicant enters in the said Aamapara and if matter is reported to the concerned court and if the court found that the applicants ever enter in the said Aamapara, the bail granted to the applicants stand cancelled without further reference to the Bench under intimation. It is further directed that if the applicant repeats or commit any offence with the prosecutrix/family members and if the matter is reported to the trial court and the trial court found that the applicant ever committed any offence with the prosecutrix or her family members, the bail granted to the applicants shall stand cancelled without further reference to the Bench.

12. The applicants are further directed to remain present before the SHO/IO/Incharge as the case may be, at Police Station Kanker on every 1st and 3rd Monday at 11.00 am positively till trial. If the applicants remained absent, the concerned Police may

intimate the trial court for the same. If the trial court finds that the applicants remained absent without any cogent and proper reason as directed, the bail granted by this Court shall stand automatically cancelled without further reference to the Bench under intimation.

13. A copy of the order be kept in MCRC No. 2711/2017.

Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE