

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3195 of 2017**

1. Munna Sahu S/o Sukhram Sahu, Aged About 20 Years R/o Village- Kusmi (Bahera) Police Station- Bemetara, Tahsil & District- Bemetara, Chhattisgarh.
2. Chandrika @ Badri Nishad S/o Munshiram Nishad, Aged About 18 Years R/o Village- Kusmi (Bahera) Police Station- Bemetara, Tahsil & District- Bemetara, Chhattisgarh.
3. Rahul Dewangan S/o. Hemram Dewangan, Aged About 20 Years R/o Village- Kusmi (Bahera) Police Station- Bemetara, Tahsil & District- Bemetara, Chhattisgarh.
4. Raja @ Chukeshwar Sahu S/o Kishor Sahu Aged About 20 Years R/o Village- Kusmi (Bahera) Police Station- Bemetara, Tahsil & District- Bemetara, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station - Bemetara, District- Bemetara, Chhattisgarh.

---- Respondent

AND**Misc. Criminal Case No. 3202 of 2017**

- Leelaram @ Neelam S/o Rikhiram Sahu, Aged About 20 Years (Wrongly Mentioned Rikhiraj) R/o Village Kusmi (Bahera), Police Station Bemetara, Tahsil & District Bemetara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O. Police Station Bemetara, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vivek Sharma and Shri Vaibhav Goverdhan, Advocates
For Respondent/State	: Shri Sumit Jhawar, Panel Lawyer

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

31.7.2017

As both the above mentioned bail applications arise out of same incident and crime number, both are heard and disposed of by a common order.

2. 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.152/2017 registered in Police Station Bemetara, Distt. Bemetara (CG) for the offence punishable under Sections 294, 323, 354, 354B, 506, 147, 149 of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO' Act.)

3. Learned counsel for the applicants submits that the applicants have been arrested on 23.3.2017, after investigation police has filed charge sheet which is pending before Additional Sessions Judge (FTC)/Special Judge under the POCSO Act, Bemetara as Special Criminal Case No.16/17. Learned counsel for the applicants would submit that the applicant are in custody since long, they are aged about 18-20 years, first offenders, they will not commit any offence in future and as per allegation, during Holi festival the applicants had broken eggs on the head of the prosecutrix, aged about 14 years, and also used criminal force with intend to disrobe by tearing her clothes. As the trial may take sometime for its conclusion, they may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicants and would submit that looking to the entire prosecution case that all the applicants in the Holi festival stopped the prosecutrix and thereafter tore her clothes. The prosecutrix is aged about 14 years and belongs to Scheduled Caste category. Looking to the act of the applicants, their applications for bail may be rejected.

5. Perused the entire material.

6. The applicants are aged between 18-20 years, they are first offenders, they are in custody for four months and eight days, charge sheet has been filed, the trial may take sometime for its conclusion, looking to the entire facts and as submitted, they will not commit any offence in future, I am inclined to grant last opportunity to the applicants so that they will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- each with two separate solvent sureties of Rs.50,000/- each to the satisfaction of the concerned trial Judge for his appearance before the said Court as and when directed.

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 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 remain 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.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Bemetara, Distt. Bemetara **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Bemetara, Distt. Bemetara as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. In addition, the applicants are directed not to communicate/contact in any of the manner with the prosecutrix, witness and family members cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. If so, the witnesses and the prosecutrix may report the said act to the trial Judge and if the trial Judge finds that in any way the applicants

directly or indirectly gave pressure or any attempt for any illegal favour in the trial or otherwise, the bail granted to the applicants shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicants in custody including other measures as provided under the law.

12. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE