

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 3607 of 2017**

Nitin Dewani S/o Prem Chand Dewani, Aged About 26 Years R/o  
Street No. 7, Ankit Niwas, Govind Nagar, Rajatalab, Raipur, Tahsil &  
District Raipur (CG)

---- Applicant

**Versus**

State of Chhattisgarh through S. H. O. Police Station Sakti, District  
Janjgir Champa (CG)

---- Respondent

**MCRC No. 3768 of 2017**

Prem Chand Dewani S/o Late Chandumal Dewani, Aged About 59  
Years R/o Street No. 7, Ankit Niwas, Govind Nagar, Rajatalab, Raipur,  
Tahsil & District Raipur, CH.

---- Applicant

**Versus**

State of Chhattisgarh through S.H.O. Police Station Sakti, District  
Janjgir Champa, Chhattisgarh.

---- Respondent

|                      |                                   |
|----------------------|-----------------------------------|
| For applicants       | Mr. Ravindra Sharma, Adv.         |
| For Respondent/State | Mr. Ashok Swarnkar, Panel lawyer. |

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

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**4-9-2017**

1. As MCRC No. 3607/2017 and MCRC No. 3768/2017 arise out of same incident and crime number, they are being disposed of by this common order.
2. The applicants have preferred these applications for grant of bail as they are arrested on 24-3-2017 in connection with Crime No. 55/2017 registered in PS Sakti, Distt. Janjgir Champa (CG) for offence punishable under Section 292, 509, 34, Indian Penal Code, 1860 and Section 67 and 67-A of the Information Technology Act, 2000.
3. Learned counsel for the applicants submit that after investigation charge sheet has been filed and the same is pending before the JMFC Sakti as Cr. Case No. 263/2017. This is their first bail application before this Court. They are first offenders. Trial Court has framed charges against the applicants under Section 292, 509 of the IPC,

Section 67 and 67-A of the Information Technology Act, 2000 read with Section 34 on 22-7-2017. Thereafter the complainant /victim/ prosecutrix and the applicant jointly preferred an application under Section 320 sub-section (2), Section 320 sub-section (8) of the Code of Criminal Procedure, 1973 for permission to compound the offence and for acquittal of the applicants out of the compromise. The trial Court i.e. Judicial Magistrate First Class, Sakti on 26-8-2017 allowed the application, permitted to compound the offence under Section 509 of the IPC, acquitted both the applicants for the charges under Section 509, IPC and held that the trial shall continue for the remaining provisions i.e. Section 292, IPC and Section 67, 67-A/34 of the Information Technology Act, 2000. From the application filed by the complainant prima facie it appears that amicable compromise has been arrived at between the parties, though as the aforementioned remaining sections are not compoundable hence trial will continue but between the parties, good relations are restored and as per written application filed by the complainant before the trial Court, the complainant / victim do not want to proceed against the applicant. Even otherwise, the matter is triable by the judicial Magistrate First Class. Conviction may be upto 5 years. It is submitted that the applicants are in custody since 5 months and 10 days till date. They will not commit any offence in future if granted bail. They may be granted bail as the trial may take time.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and submits that as the applicant sent obscene photographs of the victim to another person, transmitted them electronically, with this outraged the modesty of the prosecutrix hence both the MCRCs may be dismissed.
5. Perused the matter.
6. As the applicants are in jail since 5 months and 10 days till date,

charge sheet has been filed, charges are framed, victim/complainant/prosecutrix had filed joint application along with applicants to compound the offence before the trial court and intends not to proceed against the applicants, the relation between the parties are restored as cordial, trial may take some time, though offence surfaced is of serious nature but on consideration of entire facts including compromise between the parties, length of detention and other facts, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRCs are allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 50,000/- with two solvent sureties each of Rs. 25,000/- for each applicant to the satisfaction of the trial Court for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

7. 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: (iv) the trial Court finds that the applicants remain 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.
8. Copy of the order be placed in the file of MCRC No. 3768/2017.
9. CC as per rules.

**Sd/-**  
**(Chandra Bhushan Bajpai)**  
**Judge**