

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3679 of 2017**

- Grahan Das S/o Thibu Das Aged About 40 Years R/o Bhitthikala Chowki, Police Station, Ambikapur, District Sarguja, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through : Station House Officer, Police Chowki, Manipur, Police Station - Ambikapur, Civil And Revenue District , Sarguja, Chhattisgarh.

---- Respondent

For Applicant	: Shri PK Patel, Advocate
For Respondent/State	: Shri NK Mehta, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****21.6.2017**

1. Heard the matter finally.
2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No.98/2017, registered at Out Post Manipur, Police Station, Ambikapur, Distt. Sarguja(CG) for the offence punishable under Sections 354, 454 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short the POCSO Act).

3. The case of prosecution is that the applicant entered into the house of the prosecutrix when she was all alone in the house and used criminal force to outrage her modesty. When the prosecutrix attempted to save her and called for help, the applicant fled away from the spot.

4. Learned counsel for the applicant submits that the applicant is arrested on 5.3.2017 and after investigation police had filed charge sheet which is pending before the Special Judge under the POCSO Act/ Additional Sessions Judge (FTC), Sarguja at Ambikapur(CG) as Special Criminal Case No. 62/2017. He further submits that the applicant is the first offender and he has no criminal past; he will not commit any offence in future and shall cooperate with the trial and also he will not communicate or contact the prosecutrix and other witnesses, therefore, he may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that the applicant had trespassed the house of the prosecutrix when she was all alone and outraged her modesty by using criminal force and taking her inside on the bed.

6. I have heard the counsel appearing for the parties and perused the material.

7. Considering the totality of the facts and circumstances of the case, the applicant is in detention since 3 months and 16 days; charge sheet has been filed; trial may take some time and though the incident as surfaced goes to show the courage and other act of the applicant, but when the prosecutrix raised hue and cry, the applicant ran away from the spot and the applicant had no criminal past, I am inclined to grant one opportunity to the applicant so that he shall not involve in any of the offence 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 applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial court for his appearance before the said trial Court as and when directed till trial.

10. 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 the above , the Court below may proceed further under the provisions of law, under intimation.

11. In addition, the applicant is directed not to communicate/ contact in any of the manner with the prosecutrix/ her neighbour and witnesses cited in the charge sheet or attempt to ask for any favour in the trial. 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 applicant gave pressure or any attempt for any 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 shall take the applicant in custody including other measures as provided under the law.

12. This Court observed that the trial Judge while deciding the bail application of the applicant dated 8.3.2017, mentioned her designation as Additional Sessions Judge(FTC), Sarguja at Ambikapur (CG) whereas, the basic and relevant designation of the said trial Judge is that he/she may have been appointed under Section 28 of the POCSO Act to try the offences arises for the POCSO Act and as designated under Section 28, the Court below may have taken cognizance under Section 33 of the POCSO Act. If so, then the Court below is required to mentioned her

designation as Special Judge under the POCSO Act/Additional Sessions Judge(FTC), Sarguja at Ambikapur (CG). The trial Judge is directed to mention her designation correctly under the law.

13. Registrar (Judicial) is directed to send the copy of this order to the trial Judge for future guidance.

Certified copy as per rules.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**