

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3793 of 2017**

Kallu Khan S/o Shri Aftab Khan, Aged About 32 Years R/o Hemu
Nagar Near Chadani Pan Thela P.S. Torwa Tahsil & District
Bilaspur, CG

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Torwa District
Bilaspur, Chhattisgarh

---- Respondent

For applicant	Mr. Dheerendra Pandey, Adv.
For Respondent/State	Mr. Vasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11/7/2017**

1. Regarding FIR lodged and also the relation between Monti Khan and present applicant, learned counsel for the applicant submits that as per report, present applicant and Monti Khan are brothers.
2. Heard finally.
3. The applicant has preferred this application for grant of bail as he is arrested on 9-5-2017 in connection with Crime No. 149/2017 registered in PS Torwa, Distt. Bilaspur for offence punishable under Section 354 and 506 of the Indian Penal Code, 1860.
4. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the matter is pending before the Special Railway Magistrate, Bilaspur as Criminal Case No. 1884/2017. The applicant is not the co-accused with his brother

in the alleged incident of marpeet with Raja Kosle, brother of the prosecutrix. He is in custody since long. Earlier in Crime No. 431/2016 and 622/2016 preventive proceedings have been initiated against the applicant. He is not the earlier convict. Trial may take some time. Charge sheet is filed. He will not commit any offence in future. He may be granted bail.

5. Per contra, learned State counsel opposes the bail application and submits that earlier two preventive proceedings as aforementioned have been initiated against the applicant and on the date of incident he used criminal force on the prosecutrix (name not mentioned), outraged her modesty and he was talking with the prosecutrix by touching her breast more than once and also said that report lodged in connection with alleged marpeet with her elder brother be taken back. Hence looking to the entire facts, instant MCRC may be dismissed.
6. Perused the entire matter.
7. The applicant is in custody since 2 months and 2 days till date, charge sheet is filed, trial may take some time, the matter is triable by Magistrate First Class, no criminal antecedent is shown in the police case diary against the present applicant but for two preventive proceedings under Section 107 and 116 sub-section (3) of the CRPC which as per provisions are closed after six months. The applicant has not taken any part in the alleged marpeet with the younger brother of the prosecutrix Raja Kosle. Looking to the entire facts, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed.

The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of the Special Railway Magistrate, Bilaspur CG for his appearance before the said Court regularly as and when directed by the said Court.

8. 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: (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Torwa, Bilaspur on every 1st and 3rd Monday at 11 am positively till trial. If the applicant fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
9. In addition, the applicant is directed not to communicate / contact in any manner with the prosecutrix and the witnesses cited in the charge sheet and any other person concerned 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 after hearing that in any way the applicant directly or indirectly gave pressure on the witness or the prosecutrix for illegal favour in the trial or other wise, 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.

10. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

- 11.C.C. as per rules.

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