

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3798 of 2017**

Sohan S/o Bagas Sahu, Aged About 20 Years Occupation Student, R/o Village Jhiriya, Police Chowki Chandnu, Police Station Nandghat, District Bemetara, CG

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Nandghat, District Bemetara, Chhattisgarh

---- Respondent

For applicant	Mr. P.P. Sahu, Adv.
For Respondent/State	Mr. UKS Chandel, Panel lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****30-6-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 10-5-2017 in connection with Crime No. 112/2017 registered in PS Nandghat, Distt. Bemetara, CG for offence punishable under Section 354(D) of the Indian Penal Code, 1860 and Section 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (in brevity 'POCSO Act').
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed before the Additional Sessions Judge, designated under Section 28 of the POCSO Act as Special Court to try the offence under the POCSO Act, under the relevant provisions of Section 33 sub-section (1) of the POCSO Act, directly to the said Special Court which is pending as Special Criminal Case under the POCSO Act No. 25/2017. The applicant is the first offender. The offence under Section 354(D) of the IPC for the first instance is bailable as per Schedule I Part I of the Cr.P.C., offence under Section 12 of the POCSO Act is non-bailable as provided in Schedule I Part II

in the Cr. P.C. The punishment is only extended upto 3 years and fine. As per allegation, the applicant chased the prosecutrix with the purpose of ulterior motive for which the prosecutrix was disinterested and also spoken wrong words. The applicant is first offender, aged about 20 years. He is a student and will not commit any offence in future if granted bail. He may be granted bail as trial may take some time.

4. Per contra, learned counsel for the State opposes arguments advanced by learned counsel for the applicant as the applicant chased the prosecutrix aged about 17 years with the ulterior motive and committed an offence as aforementioned. Though he fairly conceded that no criminal antecedent of the applicant is reported by the police in the case diary.
5. Perused the matter.
6. The applicant is aged about 20 years. He is in custody since 1 months and 20 days till date. Charge sheet is filed, trial may take some time. Section 354(D) of the IPC is bailable for first instance, for the remaining act, imprisonment provided may be extended upto 3 years and fine, as submitted he will not commit in future, 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 Judge, POCSO Act/Additional Sessions Judge (FTC), Bemetara CG for his appearance before the said Court regularly as and when directed by the said Court.
7. 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge

Pathak