

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4338 of 2017**

Indramani Yadav S/o Shri Anadiram, Aged About 34 Years By Caste Yadav, Occupation Shiksha Karmi Grade 2, Middle School Manjhipara, Katkalo, Residence Village Tomta, District Jashpur, CG. R/o Near Soor Chowk Sitapur, Tahsil Sitapur, District Sarguja, CG.

---- Applicant

Versus

State of Chhattisgarh through Police Station Sitapur, Distt Sarguja, CG.

---- Respondent

For applicant	Mr. Pramod Verma, Sr. Adv. with Mr. Kaushal Yadav, Adv.
For Respondent/State	Mr. Vasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

19-9-2017

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 18-5-2017 in connection with Crime No. 188/2016 registered in PS Sitapur, Distt. Sarguja (CG) for offence punishable under Section 354/34 of the Indian Penal Code, 1860, Section 5(c)(f) of the Protection of Children from Sexual Offences Act, 2012 (in brevity 'Act of 2012'), Section 3 sub-section (1)(w)(i) and (ii), section 3 sub-section (2)-(va) and (vii) of the Scheduled Castes and Scheduled Tribes Act, 1989 (in brevity 'SCST Act').
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the Special Judge under SCST Act, Sarguja at Ambikapur as Special Sessions Trial No. 47/2017. Learned counsel submits that earlier he filed MCRCA No. 193/2017 which was dismissed by the coordinate bench of this Court on 7-4-2017 on merit. Police filed charge sheet against the present applicant and co-accused Rakesh Kushwaha showing him absconding. During pendency of the matter, co-accused also surrendered before the trial Court but he has not preferred any regular bail for his release, though earlier he had filed MCRCA No.

1338/2016 which was withdrawn on 19-12-2016 by the coordinate bench. Learned counsel submits that the material surfaced in the charge sheet goes to show, as alleged the applicant asked the co-prosecutrix and the prosecutrix to cook chicken in the school kitchen. Both the students/children cooked chicken, gave it to the applicant. Thereafter one Urmila madam asked both the prosecutrix and other girl students Sumitra Kujur and Anisha Bada to wait and to go after cleaning the utensils, thereafter the applicant asked the prosecutrix to bring the key of his motorcycle which was lying in the staff room. When the prosecutrix went inside the staff room, the applicant also went there and caught hold her from back side, thereafter the prosecutrix pushed him and came at the door of the staff room. Except this, nothing more is surfaced in the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. The present applicant is in custody since more than 4 months. He has been suspended from service by his superior officials and his headquarter is fixed at the office of Block Development Education Officer, Udaipur, Distt. Sarguja (CG). Till date, the applicant is under suspension. His suspension is not revoked. With this, there is no possibility to come into contact of the prosecutrix who is a student of Government School, Manjhipara, Block Menpat, Distt. Sarguja. He will not commit any offence in future. He may be granted bail during trial.

4. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant and submits that as the applicant was the public servant and also a staff of educational institution and attempted the act as surfaced, hence looking to the entire fact, instant MCRC may be dismissed.
5. Perused the entire matter.
6. There is nothing to demonstrate any similar or other criminal antecedent of the applicant prior to the incident, he is in custody for

last 4 months, with this he has tasted the post effect of the incident reported, also as submitted he has been suspended from service, his headquarter is fixed in the office of Block Education Officer, Udaipur, with this there is remote possibility to go to that institution. On consideration of entire facts, as the applicant only caught hold the prosecutrix from back side and when the prosecutrix pushed him, there was no any further attempt for any of the act, 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. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the trial Judge 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. The applicant is further directed to appear before the concerned SHO/IO /in-charge of the Police Station Sitapur, distt. Sarguja on 1st and 3rd Monday of every month at 11 am positively till trial. If the applicant fails 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.

8. In addition, the applicant is directed not to communicate / contact in any manner with the prosecutrix, co-prosecutrix, their family members and the witnesses cited in the charge sheet and or attempt to ask for any favour in the trial directly or indirectly. If so, they may report the said act to the trial Judge and if the trial Judge finds that in any way the applicant directly or indirectly gave pressure 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.
9. If the applicant in any way attempts to enter into said Middle School, Manjhipara, Katkalo, Development Block Mainpat, Distt Sarguja, any person may bring this fact to the knowledge of the trial Court and if it is found that the applicant entered into the said school premises, the bail granted by this Court shall automatically cancelled by the concerned trial Judge without any reference to the bench under intimation and the trial Court may take the applicant in custody along with other procedural proceedings.
10. Addl. 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. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge