

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4157 of 2017**

- Abdul Shahid S/o Shri Abdul Karim, Aged About 20 Years R/o Chittajhor, Podi, Police Station Podi, District Korea (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through : Station House Officer, Police Of Police Station Chirmiri, District Korea (Chhattisgarh)

---- Respondent

For Applicant	: Shri Samir Singh, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****26.7.2017**

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.181/2017 registered in Police Station Chirimiri, Distt. Korea (CG) for the offence punishable under Sections 354, 354(A) and 456 of the Indian Penal Code and Section 8 of Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act')

3. Learned counsel for the applicant submits that the applicant has been arrested on 13.5.2017, after investigation, concerned police has filed charge sheet, which is pending before Additional Sessions Judge/Special Judge under the POCSO Act as Special

Criminal POCSO No.17/17. As per the allegation, the applicant trespassed in the house of the prosecutrix at about 2.00 am in the night and used criminal force to outrage the modesty of the prosecutrix, aged about 17 years, by touching her body. When the prosecutrix knew about the said fact, the applicant fled away from the spot. Learned counsel for the applicant submits that the applicant, aged about 20 years, is the first offender, he is in custody since long, he will not commit any offence in future, hence, he may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant on the basis of the entire act committed by the applicant and also earlier preventive proceedings under Section 107 & 116 (3) Cr.P.C. has been initiated against the applicant.

5. Perused the entire material.

6. The applicant is in custody for two months and thirteen days, charge sheet has been filed, he is the first offender, the trial may take sometime for its conclusion, the applicant was never involved in any of the offence but for preventive proceedings initiated against him. On due consideration of the entire facts and the role played by the applicant, I am inclined to grant one opportunity to the applicant, so that he shall not commit any other offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. 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 separate solvent sureties of Rs. 25,000/- to the satisfaction of the concerned trial Judge for his appearance before the said Court as and when directed.

9. 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.

10. In addition, the applicant is directed not to communicate/contact in any of the manner with the prosecutrix, witness and family members cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. 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 directly or indirectly 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.

11. Registrar (Judl.) is directed to send a copy of this order to the concerned trial Judge.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

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