

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4097 of 2017

- Ajay Singh Thakur S/o Kartar Singh Thakur, Aged About 25 Years, R/o Surya Chowk, Chingrajpara, Police Station Sarkanda, Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station- Sarkanda, District Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri C.Jayant K. Rao, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

25-07-2017

1. At the outset, learned counsel for the applicant placed certified copy of the charges framed against the applicant by the trial Judge in Special Criminal Case under Protection of Children from Sexual Offences Act, 2012((in short 'the POCSO Act') dated 13-06-2017 wherein the present applicant has been charged for offence under Section 452, 323, 506 of the IPC. The said certified copy is taken on record.

2. Heard the matter finally.

3. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.226/2017 on 07-04-2017 by P.S. Sarkanda, District Bilaspur, C.G. for the offence under Section 354, 452, 323, 506, 34 of the IPC and Section 11, 12 of the POCSO Act. After investigation police had filed the charge sheet against two accused person including co-accused Dwarika Gandharva and the present applicant. The matter is pending before the Additional Sessions Judge (FTC)/ Special Judger under the POCSO Act Bilaspur in Special Criminal Case POCSO No.34/17. The learned counsel would submit that the applicant was never involved in any of the offence under Section 354 of the IPC and Section 11, 12 of the POCSO Act, the said charges were leveled against the co-accused along with other penal offences. The

present applicant charged by the trial Court on 13-06-2017 under Section 452, 323, 506 of the IPC. He is in custody since long. He will not commit any offence in future. The applicant is the first offender. He may be granted bail till trial.

4. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that after 10 minutes of the main incident the present applicant also trespassed in the house of prosecutrix and her family and assaulted the prosecutrix, her mother and also gave threat to take the life, hence, the instant MCRC may be dismissed.

5. Perused the entire material.

6. As the applicant is in custody for since three months 18 days till date, charge sheet has been filed, charges are framed, the applicant is not the main accused, as per the allegation after 10 minutes he too entered in the house of the prosecutrix and assaulted the prosecutrix and her mother and gave threat to take the life, also the applicant is first offender, and as the matter is distinguishable from the main accused Dwarika Gandharva, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby 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 of Rs.25,000/- each to the satisfaction of the Special Judge under the POCSO Act/ Additional Sessions Judge (FTC) Bilaspur, C.G. for his appearance before the said Court as and when directed till trial.

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; 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 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 of the manner with the prosecutrix and the 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 directly or indirectly, 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.

9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge