

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4710 of 2017

- Rajendra Singh Maravi S/o Sampat Singh Maravi, Aged About 25 Years, By Caste Gond, R/o Village Benivari (Kursitola), Thana Karanpattar, Tahsil Pushparajgarh, District Anuppur, Madhya Pradesh. At Present R/o Village Badgaon, Thana Badgaon, Tahsil Pakhanjore, District Uttar Bastar Kanker, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Uttar Bastar Kanker, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Parag Kotecha, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

17-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.4/17 on 25-3-2017 by P.S. North Bastar Kanker, C.G. for the offence under Section 363, 366, 343, 506, 376(2)(i)(n) of the IPC and Section 4, 6 of Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act). After investigation police had filed the charge sheet, which is presently pending before the Special Judge under the POCSO Act Bhanupratappur, Distt. North Bastar Kanker, C.G. as Sessions Trial No.31/17. Learned counsel for the applicant would submit that there is delay in lodging the FIR for 22 days. The applicant is falsely implicated. He is innocent. He will not commit any offence in future. He may be granted one opportunity to remain in bail during trial.
3. Per contra, learned counsel for the non-applicant /State opposed the argument advanced on behalf of the applicant and submitted that during investigation police had collected documents regarding age of the prosecutrix, which goes to show the date of birth of the prosecutrix is 3rd April, 2002 and the incident happened on 03-03-2017; with this, the prosecutrix was below the age

of 15 years and looking to the entire facts surfaced, the instant MCRC may be dismissed.

4. Perused the entire material.

5. After perusal of the entire facts regarding the incident, how it happened and other material collected including as the prosecutrix was child under Section 2(1)(d) of the POCSO Act, I am not inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

6. On perusal of the order passed by the trial Court under Section 439 of the Cr.P.C. dated 21-06-2017, it appears that the matter is registered as Special Sessions Trial No.31/17. On perusal of the legal position as attracted the Special Court is designated under the provision of Section 28 of the POCSO Act and the Special Court may take cognizance under Section 33 of the POCSO Act. As the matter is not committed under Section 209 of the Cr.P.C. and the charge sheet is directly filed to the Court of Special Judge under the provision of Section 33(1) of the POCSO Act, the matter cannot be termed as Special Sessions Trial. With this, the trial Judge is directed to correct the nomenclature regarding registration of the said matter. The matter shall be registered as Special Criminal Case (Protection of Children from Sexual Offences Act, 2012). The Sessions Judge North Bastar Kanker is further directed to see that the Courts working under his supervision and subordination in the entire District shall register matter under the provisions of law.

7. Copy of this order be sent to trial Judge for compliance, also to the Sessions Judge North Bastar Kanker for future guidance.

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