

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5306 of 2017**

1. Bharatlal Choudhary S/o Laxmi Prasad Choudhary, Aged About 52 Years R/o Village Ameri, Thana Sariya, District Raigarh, CG.
2. Gurucharan Patel S/o Ghasiya Patel, Aged About 52 Years R/o Village Ameri, Thana Sariya, District Raigarh, CG.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Kotra Road,
District Raigarh, Chhattisgarh.

---- Respondent

For applicant	Mr. Sanjay Agrawal, Adv.
For Respondent/State	Mr. Sumit Jhanwar, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****13-9-2017**

1. Perused the office not dated 5-9-2017. As per said note, co-accused Priya, Jyoti, Pinky and Anjani have not preferred any bail petition in connection with the present matter.
2. Bail petition of co-accused Smt. Girija Srivas (MCRC No. 5485/2017) has been disposed of as withdrawn today itself.
3. Heard finally.
4. The applicants have preferred this application for grant of bail as they are arrested on 31-7-2017 in connection with Crime No. 145/2017 registered in PS Kotra Road, Raigarh (CG) for offence punishable under Section 3, 4, 5 of the Immoral Traffic (Prevention) Act, 1956 (in brevity 'PETA Act').
5. Learned counsel for the applicants submit that after investigation charge sheet has been filed against total 7 accused persons including present applicants and the same is pending before the JMFC Raigarh as Cr. Case No. 555/2017. The applicants never committed any crime earlier. They are permanent residents of PS. Sariya, Distt. Raigarh.

As per allegation, both the applicants were found inside the brothel run by co-accused Smt. Girija Srivas. They were customers for the purpose of Section 5 of the PETA Act. This is their first bail application before this Court. They are first offenders. They will not commit any offence in future if granted bail. They may be granted bail as the trial may take time.

6. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicants and submits that as the applicants are involved in the present matter as customer in the said brothel, which was run for prostitution hence looking to the facts surfaced in the instant case diary, instant MCRC may be dismissed. However he fairly concedes that no criminal antecedent of the applicants is reported by the police in the case diary.
7. Perused the matter.
8. As the applicants are in jail since 1 month and 14 days till date, charge sheet has been filed, trial may take some time, they are first offender, the matter is triable by Judicial Magistrate First Class, maximum sentence may be awarded is RI for 7 years under Section 5 of the PETA Act and as submitted they will not commit any crime in future and considering entire facts of the case, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 50,000/- with two solvent sureties each of Rs. 25,000/- for each applicant to the satisfaction of the JMFC, Raigarh for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

9. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this court or the Hon'ble Apex Court intentionally, (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature: (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Kotra, Distt, Raigarh (CG) on every 1st and 3rd Monday at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remain absent without any cogent and proper reason as directed, the bail granted to applicants 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.

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.

10. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge