

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5372 of 2017

- Rajkumar, S/o Dwarika Prasad Nirmalkar, Aged About 22 Years, R/o Village Dewarbija, Police Station Bemetara, District Bemetara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Bemetara, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant : Shri Sanjay Agrawal, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

06.09.2017

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.398/2017 on 04/07/2017 by Police Station Bemetara, Distt. Bemetara, (C.G.) for the offence under Section 354 & 354D of IPC & under Section 7 & 8 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSCO Act").

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is pending before the Special Judge under the Protection of Children from Sexual Offences Act 2012, Additional Session Judge/(FTC) Bemetara (C.G.), as Special Criminal Case (POCSCO 2012) No. 31/17.

Learned Counsel for the applicant would submit that applicant is the first offender, police had filed supplementary charge-sheet against co-accused the juvenile Sagar Rajput before the Juvenile Justice Board (JJB) Bemetara (C.G.). As per allegation, the applicant hold the hand of the prosecutrix taking with him and attempted to kiss her and also follows the prosecutrix who is aged about 15 years for indecent favour and also gave threat. He will not commit any offence in future.

4. Per Contra, Learned counsel for the respondent/State opposes the argument advanced on behalf of the act of the applicant, though the applicant is aged about 22 years and he is stocking and committing act as aforementioned with a girl, hence the instant MCRC may be dismissed.

5. Peruse the entire material.

6. As applicant is the first offender, he is in custody since 2 months and 2 days till date, charge sheet has been filed, trial may take some time and as submitted that there is no criminal antecedent reported against the applicant, on consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that he shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC allowed

8. 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/- to the satisfaction of Special Judge, Bemetara (C.G.) for his appearance before the said Court regularly as and when directed by the said Court for their appearance before

the said Court 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 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 applicants 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.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Bemetar, Distt. Bemetara (C.G.) **on First and Third Monday of every month at 11:00 am.** It is further made clear that if the applicants without any cogent and proper reason do not appear before the Police of Police Station Bemetar, Distt. Bemetara (C.G.) as directed, the concerned police may inform the trial Court for the act and if their non-appearance found to be without any proper and cogent reason, the instant order granting bail to the applicants shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. In addition, the applicant is directed not to communicate/contact in any manner with prosecutrix, her family members and the witnesses cited in the charge-sheet and any other person concerned or attempt to ask for any favour in the trial directly

or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing that in any way the applicant directly or indirectly gave pressure for 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 may take the applicant in custody including other measures as provided under the law.

12. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge

Deeptijha