

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5654 of 2017**

Sushil Nishad S/o Kamalnarayan Nishad, Aged About 21 Years,
R/o Village Koliyari, Police Station Arjuni, District Dhamtari,
Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Of
Police Station Arjuni, District Dhamtari, Chhattisgarh

---- Respondent

For applicant	Mr. Anil Gulati, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****14-9-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 6-6-2017 in connection with Crime No. 148/2017 registered in PS Arjuni, Distt. Dhamtari (CG) for offence punishable under Section 354(A), 294, 323, 452, 506 of the Indian Penal Code and Section 3 sub-section (1)(w)(ii), Section 3 sub-section (2) (va) of the Scheduled Castes and Scheduled Tribes Act, 1989 (in brevity 'SCST Act').
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is pending before the Special Judge under SCST Act, Dhamtari as Special Session Trial (SCST Act) No. 173/2017. This is his first bail application before this Court. He is first offender aged about 21 years. As per allegation, on the date of incident, the applicant gestured and used words of sexual nature towards the prosecutrix and

asked where she is going, thereafter when the prosecutrix informed her mother for the said fact, the applicant used obscene words and assaulted the mother of the prosecutrix by brick and caused injury over the chest, left hand and arm. In the MLC examination mother of the prosecutrix made complaint of pain. Doctor noticed diffused swelling at the front part of the chest 6 x 6 cm and also noticed contusion over left hand 3 x 3 cm along with diffused swelling, contusion over left arm 2 x 2 cm along with swelling caused by hard and blunt object. Though X-ray was advised but there is no X-ray report annexed in the charge sheet, with this it may be presumed that there may not be any fracture. Looking to the period of detention, age of the applicant, the applicant may be enlarged on bail.

4. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant and submits that the applicant committed offence in three continuous period i.e. first he gestured and used words of sexual nature, secondly he trespassed, ultimately caused injuries aforementioned to the mother of the prosecutrix hence instant MCRC may be dismissed.
5. Perused the matter.
6. As the applicant is the first offender aged about 21 years, he is in jail since 3 months and 9 days till date, charge sheet has been filed, trial may take some time, though entire act of the applicant shows his conduct, temperament and offensiveness, but looking to the age and period of detention and as the applicant has no criminal antecedent and as submitted he will not commit any

crime in future and considering entire facts of the case, I am inclined to grant last opportunity to the applicant to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the trial Court for his appearance before the said Court regularly as and when directed by the said Court.

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; (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Arjuni, Distt. Dhamtari on 1st and 3rd Monday of every month at 11 am positively till trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant 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.

8. In addition, the applicant is directed not to communicate / contact in any manner with the prosecutrix, her mother Bahurin Bai and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. If so, they 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 for illegal favour in the trial or other wise, 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.
9. 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**