

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5600 of 2017

- Gopikishan Gandharva S/o Baldau Gandharva Aged About 19 Years R/o Majhgaon, Police Station Kawardha, District Kabirdham Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Sation Kawardha, District Kabirdham Chhattisgarh.

---- Non-applicant

For Applicant	: Pushpendra Kumar Patel, Advocate.
For Respondent/State	: Shri Sumit Jhawar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

13.09.2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No. 177/2017 on 13.07.2017 by Police Station Kawardha, District Kabirdham (C.G.) for the offence under Section 354, 456 of IPC & Section 7 and 8 of Protection of Children from Sexual Offences Act, 2012 (in brevity 'the POCSO 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 Act of 2012, Kabirdham

C.G., as Special Criminal Case (POCSO) No. 58/2017. Applicant is the first offender, he will not commit any offence in future. As per the allegation, on the date of incident when the prosecutrix aged about 19 years was sleeping at her house at midnight the applicant entered into the house of the prosecutrix and to outrage the modesty used criminal force by pulling her leg. When the prosecutrix woke up and shouted, the family member also woke up, thereafter the applicant fled away from the spot. Thereafter, the matter was reported to the police. Trial may take some time for its conclusion, he may be granted bail till trial.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant on the basis of the facts surfaced in the charge sheet the applicant trespassed the house of the prosecutrix and used criminal force to outrage the modesty of the prosecutrix who is aged about 15 years, though fairly conceded that the applicant had no criminal antecedent.
5. Perused the entire material.
6. As the applicant is in custody for last 2 month till date, charge sheet has been filed, trial may take some time, the applicant is the first offender and as submitted he will not commit any offence in future and there is no criminal antecedent reported against the applicant, on consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that he shall not commit any offence in future

and shall remain peacefully in the society. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

7. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety of like sum amount to the satisfaction of Trial Judge for his appearance before the said Court as and when directed.
8. 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
9. The applicant is further directed to appear before the concerned SHO/IO/in-charge, as the case may be, of Police Station Kawardha, District Kabirdham, C.G., on every 1st and 3rd Monday of every month till the conclusion of the trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remained 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.

10. In addition, the applicant is directed not to communicate/contact in any of the manner with the prosecutrix, her family members and the witnesses cited in the charge-sheet or attempt to ask for any favour in the trial. If so, the prosecutrix, her family members and the witnesses 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.

11. Register (Judicial) is directed to send a copy to this order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge