

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5613 of 2017**

- Harisingh S/o Ramsingh, Aged About 19 Years R/o Semarmathani, Police Station Kelhari, Tahsil Manendragarh District Korea Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Kelhari, District Korea Chhattisgarh.

---- Respondent

 For Applicant : Shri Anil Gulati, Advocate
 For Respondent/State : Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

13.9.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.39/2017 registered in Police Station Kelhari, Distt. Korea (CG) for the offence punishable under Section 452, 354, 354(A) of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

3. Learned counsel for the applicant submits that the applicant has been arrested on 15.6.2017, after investigation, police has filed charge sheet which is presently pending before First Additional Sessions Judge/Special Judge under the POCSO Act, Manendragarh Distt. Korea as Special Criminal Case (POCSO) No.22/17. As per the allegation, on 13.6.2017 when the prosecutrix was alone in her house, the applicant, who is residing nearby, came

and asked for drinking water. When the prosecutrix entered into the house for taking water, the applicant committed house trespass, entered into the house, pushed the prosecutrix, made her to lie on the floor, thereafter with intention to outrage her modesty, pressed her breast and genital and attempted to remove her clothes. The prosecutrix anyhow managed to come out from the house, then the applicant fled away from the spot. Learned counsel for the applicant would submit that the applicant is the first offender, aged about 19 years, he will not commit any offence in future, as the trial may take some time for its conclusion, he may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant on the basis of the act committed by the applicant and as the prosecutrix was luck enough to escape from the incident of rape. Looking to the facts, his application for bail may be dismissed.

5. Perused the entire material.

6. The applicant is in custody for three months, charge sheet has been filed, the trial may take some time for its conclusion, the applicant is the first offender, aged about 19 years, though the act of the applicant is of heinous in nature but considering the entire facts, I am inclined to grant one last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two

separate solvent sureties of Rs.25,000/- to the satisfaction of concerned trial Judge for his appearance before the said Court as and when directed.

9. 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; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the 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 applicant shall mark his appearance before the Station House Officer/IO, Police Station Kelhari, Distt. Korea (CG) **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Kelhari, Distt. Korea as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant 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 of the manner with the prosecutrix, her family members and witnesses cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. If so, the witnesses and the prosecutrix 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 or any attempt for any 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 shall take the applicant in custody including other measures as provided under the law.

12. Registrar (Judl.) is further directed to send a copy of the 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.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE