

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5719 of 2017**

- Tekendra @ Tarkesh, S/o Yogeshwar Prasad Sen, Aged About 22 Years, R/o Banbarad, Police Station Nandni Nagar, District Durg, Chhattisgarh.

---- Applicant**Versus**

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

---- Non-applicant

For Applicant	: Shri P.P. Sahu, Advocate.
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****20.09.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No. 187/2017 on 13.07.2017 by Police Station Berla, District Bemetara (C.G.) for the offence under Section 341, 354D of IPC & Section 11 (iv), 12 of Protection of Children from Sexual Offences Act, 2012 (In brevity POCSO Act, 2012).

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is presently pending before the Additional Sessions Judge (FTC) / Special Judge

under the POCSO Act of 2012, Bemetara, (C.G.) as Special Criminal Case (POCSO Act, 2012) No. 43/2017. Learned counsel for the applicant would submit that applicant is the first offender and student and also he is custody since long. The applicant will not commit any offence in future. As per allegation, applicant followed the prosecutrix aged about 16 years and wrongly restrain her way, when she was going on bicycle repeatedly despite clear indication of disinterest by prosecutrix, trial make take sometime for its conclusion, he may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant as the applicant followed the prosecutrix for bad intention and wrongfully restrain in mid bail, hence, the instant MCRC may be dismissed.

5. Perused the entire material.

6. As the applicant is the first offender and he is in custody for last 2 months and 7 days till date, charge sheet has been filed, trial may take some time, there is no any 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 without committing any crime.

7. Consequently, the instant MCRC is hereby 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 solvent sureties each of Rs. 25,000/- to the satisfaction of 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; (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.

10. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Berla, District Bemetara (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 remains absent without any cogent reason 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.

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 above in the charge-sheet or

attempt to ask for any favour in the trial. If so, the witnesses and 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.

12. 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.

13. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge