

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5817 of 2017**

Narayan Shrivastava S/o Chintaram Shrivastava, Aged About 52 Years R/o
Chhote Atarmuda P.S. Chakradharnagar District Raigarh, CG

---- Applicant

Versus

State of Chhattisgarh through Thana In-Charge, Chakradharnagar,
District Raigarh, Chhattisgarh

---- Respondent

For applicant	Mr. Rajendra Tripathi, Adv.
For Respondent/State	Mr. U.K.S. Chandel, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****26-9-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 31-5-2017 in connection with Crime No.110/2017 registered in PS Chakradharnagar, distt. Raigarh (CG) for offence punishable under Section 451, 354 of the Indian Penal Code, 1860 and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (in brevity 'POCSO Act').
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the same is presently pending before the Addl. Sessions Judge (FTC)/Special Judge under POCSO Act, Raigarh as Special Criminal Case No. 30/2017. This is his first bail application before this Court. He is first offender aged about 58 years as per arrest memo. As per allegation, when the prosecutrix aged about 8 years was playing along with her younger brother inside the house under construction of one Panchram Chauhan, the applicant trespassed in the said house and pressed the chest of the prosecutrix and told her that if she would have been major then more joy could have come. Also he caressed her hand and leg. Thereafter the

prosecutrix returned and informed entire facts to her mother and thereafter her mother reported the matter to the police. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take time.

4. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant on the basis of the entire facts surfaced though he fairly concedes that no criminal antecedent of the applicant is reported by the police in the case diary.
5. Perused the matter.
6. As the applicant is the first offender aged about 52 years, he is in custody since 3 months and 27 days till date, charge sheet has been filed, trial may take some time, though the act of the applicant as surfaced is of serious nature but as submitted he will not commit any crime in future and considering entire facts of the case and long detention and further considering that despite having opportunity he did not commit any further act with the prosecutrix, 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. 50,000/- with two solvent sureties of Rs. 25,000/- each to the satisfaction of the trial Judge 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 Chakradharnagar, Distt. Raigarh 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 family members 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. Addl. 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

