

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5272 of 2017

- Kailash Chandra Swai S/o Murlidharr Swai, Aged About 54 Years
R/o Village Balsi, Police Station Saraipali, District- Mahasamund,
Chhattisgarh (Details Is Not Mentioned In The Rejection Order)

---- Petitioner

Versus

- State Of Chhattisgarh Through: Station House Officer, Police
Station- Saraipali, District- Mahasamund, Chhattisgarh

---- Respondent

And

MCRC No. 6289 OF 2017

- Khushram Mukherjee S/o Jagsai Mukherjee, Aged About 52
Years R/o Ward No. 1, Behind Akashwani, Birendra Nagar,
Saraipali, P. S. Saraipali, District Mahasamund Chhattisgarh.

---- Petitioner

Vs

- State Of Chhattisgarh Through Police Station Saraipali, District
Mahasamund Chhattisgarh.

---- Respondent

For Respective
Applicants

Mr. Sunil Otwani and Mr. R. Pradhan,
Advocates

For Respondent /State

Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/11/2017

1. Heard.
2. These are the applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants, who have been arrested in connection with Crime No. 240/2017 registered at Police Station Saraipali District Mahasamund (CG) for the offence punishable under Sections 354 (1) (4)/34 of IPC and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (in short "the Act, 2012) .
3. The applicants are teachers in the Government Higher Secondary School, Saraipali. Applicant Khushram Mukherjee allegedly molested the girl students and subjected them to sexual assault including aggravated sexual assault. As against applicant Kailash Chandra Swai, the allegation is of not taking any action against the other applicant – Khushram Mukherjee, when complaints were made by the girl students against him.
4. I have gone through the case diary, which contains the statements of the girl students.
5. It is debatable whether the act alleged to have been committed by applicant- Khushram Mukherjee would amount to sexual assault as provided under Section 7 of the Act, 2012 so as to bring it within the meaning of aggravated sexual assault under Section 9, for which, punishment is provided under Section 10.
6. In any case, there being no allegations of touching the private parts of any of the girl students or asking for any sexual favour as also for the fact the applicants are in jail since last week of

July 2017 and the charge sheet has already been filed, this Court is inclined to release the applicants on bail.

7. Accordingly, the application is allowed and the applicants are directed to be released on bail on each of them executing a personal bond for a sum of Rs.25,000/- with one surety each for the like amount to the satisfaction of the trial Court. They are directed to appear before the trial Court on each and every date given by the said Court.

8. Certified copy as per rules.

Sd/-

Judge

(Prashant Kumar Mishra)

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