

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5721 of 2017**

- Kailash Kumar Rai S/o Shri Sonau Ram, Aged About 38 Years
R/o Village Hasaud, Police Station Hasaud, Tahsil Jaijaipur, Civil
& Revenue District Janjgir- Champa, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate Janjgir, District
Janjgir- Champa, Chhattisgarh.

---- Respondent

For Applicant : Shri Ishwar Jaiswal, 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.11/17 on 07/06/2017, by Police Station Hasaud, Distt. Janjgir-Champa, (C.G.) for the offence under Section 452, 354A (1), 354, 506 of the Indian Penal Code.

3. Learned counsel for the applicant would submit that after investigation police had filed charge-sheet which is presently pending before the Judicial Magistrate First Class, Distt. Janjgir-Champa (C.G.) as Criminal Case No.125/17(on account of clerical mistake the Criminal Case No. is wrongly mentioned as 126/17). Learned counsel for the applicant would further submit the applicant is the first offender and never involved in any of the crime. The

applicant will not commit any offence in future. As per allegation, applicant came to the house of the prosecutrix and asked her for the drinking water, when the prosecutrix entered in the house to bring the water, the applicant trespassed and entered in the house and caught the breast of the prosecutrix and demanded for the sexual relations, when the prosecutrix denied for the same and shouted to save her, applicant asked her not to shout and as he will take her with him thereafter, the prosecutrix reported the matter to the police. The applicant may be granted one opportunity, he will not commit any offence in future.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant and would submit that when the applicant noticed that prosecutrix is all alone in the house, he committed the said act, hence, the instant MCRC may be dismissed.

5. Perused the entire matter.

6. As the applicant is the first offender, he is in custody since 3 months and 3 days till date, charge-sheet has been filed, trial is in progress, though applicant is aged about 38 years and as mature person and also in the profession of advocate. It is not expected from a mature person and advocate to commit such act. Looking to the fact that applicant is in custody since long. He is a permanent resident of Distt. Janjgir-Champa (C.G.). There is no possibility to abscond, I am inclined to grant one last 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 allowed.
8. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- with two solvent sureties of amount Rs.50,000/- to the satisfaction of Judicial Magistrate First Class, Janjgir-Champa (C.G.) for his appearance before the said Court regularly as and when directed by the said Court.
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. 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 and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing that in any way the applicant directly or indirectly gave pressure for 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 may take the applicant in custody including other measures as provided under the law.

11. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge