

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 967 of 2017**

1. Rajendra Prasad S/o Ramsai, Aged About 35 Years R/o Thadpathatar, Patna, District Korea Chhattisgarh.
2. Awadhram S/o Jethuram, Aged About 30 Years R/o Baskar, Bhaiyathan, District Surajpur Chhattisgarh.
3. Raju S/o Sonee, Aged About 65 Years R/o Ambikapur, District Ambikapur Chhattisgarh.
4. Surajnath S/o Sadhuran Aged About 40 Years R/o Sawarawa, Pandopara, Police Station Patna, District Korea Chhattisgarh.
5. Sadhuran S/o Laluran, Aged About 75 Years R/o Sawarawa, Pandopara, Police Station Patna, District Korea Chhattisgarh.
6. Duler Bai W/o Sadhuran, Aged About 70 Years R/o Sawarawa, Pandopara, Police Station Patna, District Korea Chhattisgarh.
7. Vinod S/o Dayaram Aged About 30 Years R/o Bishrampur, Police Station Bishrampur, District Surajpur Chhattisgarh.
8. Jethuram S/o Sonai, Aged About 70 Years R/o Baskar, Police Station Bhaiyathan, District Surajpur Chhattisgarh.
9. Ramprasad S/o Nanka, Aged About 62 Years R/o Sardi, Police Station Charcha, District Korea Chhattisgarh.
10. Rampichari S/o Nanka, Aged About 70 Years R/o Sardi, Police Station Charcha, District Korea Chhattisgarh.
11. Baba S/o Hiralal, Aged About 50 Years R/o Dhadkheri, Police Station Odgi, District Surajpur Chhattisgarh.
12. Dharamjeet S/o Kapuchand, Aged About 30 Years R/o Dhadkheri, Police Station Odgi, District Surajpur Chhattisgarh.

---- Applicants**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Patna, District Korea Chhattisgarh.

---- Non-applicants**And****MCRC No. 7856 of 2017**

1. Dular Bai W/o Sadhuran Sonwani Aged About 70 Years By Caste Chamar, R/o Sanwarawa (Khursapara), Police Station Patna, District Korea, Chhattisgarh.

---- Applicant**Versus**

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

---- Non-applicant**And****MCRC No. 6337 of 2017**

1. Ajay Kumar Sonwani S/o Surajnath Sonwani, Aged About 20 Years Caste Chamar, R/o Sanwarawa (Khursapara), P.S. Patna, District Korea,

Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Patna, District Korea, Chhattisgarh

---- Non-applicant

And

MCRC No. 6750 Of 2017

1. Triveni Ram S/o Late Sardari Ram, Aged About 50 Years R/o Village Sayar Para, Udaypur, District Surguja, Chhattisgarh

---- Applicant

Vs

1. State Of Chhattisgarh Through Station House Officer, Police Of Police Station Patna, District Korea, Chhattisgarh

---- Non-applicant

And

MCRC No. 7312 Of 2017

1. Rajendra Kumar Sahu S/o Ramsai, Aged About 31 Years R/o Dudhania Kala, School Para, P.S. Patna, District Koriya, Chhattisgarh

---- Applicant

Vs

1. State Of Chhattisgarh Through The Station House Officer, Police Station Patna, District Koriya, Chhattisgarh

For Applicant(s) – Shri Awadh Tripathi, Advocate (in MCRC 967/2017, MCRC 7856 and MCRC No.6337/2017),
 Shri Anil Gulati, Advocate (in MCRC No.6750/2017),
 Shri Parasmani Shrivastava, Advocate (in MCRC No.7312/2017).

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

---- Non-applicant

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

10-01-2018

1. As these five applications arise out of the same crime number, i.e. Crime No.189/2017 registered at Police Station Patna, District Korea, C.G., they are being decided by this common order.

2. The applicant in MCRC No.7856/2017 has been arrested on 07-11-2017 in connection with aforesaid crime number for the offence under Section 363, 366, 368, 376, 376(2-A) of the IPC and Section 6, 10 of Protection of Children from Sexual Offences Act (in short 'the POCSO Act'). The applicant in MCRC No.6337/2017 has been arrested on 22-09-2017 in connection with aforesaid

crime number for the offence under Section 363, 366, 376(2) of the IPC and Section 6, 18 of the POCSO Act. The applicant in MCRC No.6750/2017 has been arrested on 17-10-2017 in connection with aforesaid crime number for the offence under Section 363, 366, 376, 368 read with Section 34 of the IPC and Section 6, 18 of the POCSO Act. The applicant in MCRC No.7312/2017 has been arrested on 24-10-2017 in connection with aforesaid crime number for the offence under Section 363, 366, 376, 368, 34 of the IPC and Section 6, 18 of the POCSO Act. These applicants have filed their first bail application under Section 439 of the Cr.P.C. for their release on regular bail.

3. The applicants in MCRC No.967/2017 are apprehending their arrest in connection with aforesaid crime number for the offence under Section 363, 366, 376(2) of the IPC and Section 6, 18 of the POCSO Act.

4. It is submitted on behalf of the applicants in MCRC No.7856/2017, MCRC No.6337/2017, MCRC No.6750/2017 and MCRC No.7312/2017 that these applicants have been falsely implicated in this case. The prosecutrix in this case accompanied applicant Ajay Kumar Sonwani on her own free will and stayed in various places without raising any objection. Apart from applicant Ajay Kumar Sonwani, all rest of the applicants have been implicated only for the reason that they are relatives of the main accused person and had given shelter to the main accused and the prosecutrix in their respective houses. The investigation of the case has been completed and the charge sheet has been filed, hence, there is no purpose left to keep these applicants in detention. Therefore, it is prayed that these applicants may be granted regular bail.

5. Learned counsel for the applicants in MCRC No.967/2017 submits that applicant Surajnath has been roped in this case only for the reason that he is father of the main accused Ajay Kumar Sonwani, who himself complained to the police that the prosecutrix in this case had eloped with his son on two prior occasions and on both the previous occasions, he himself had handed over the prosecutrix in custody of her parents. Hence, it is prayed that applicant

Surajnath in MCRCA No.967/2017 may be benefited with grant of anticipatory bail. It is further submitted by learned counsel for the applicant that the prosecution has relied only on the admission register of the school which cannot be deemed as reliable piece of evidence. The examining doctor had advised for X-ray examination of the prosecution for age confirmation, but no such confirmation has been done. It is further submitted that the application of other applicants in MCRCA No.967/2017 is not pressed.

6. Learned counsel for the State/non-applicant opposes the applications and the submissions made. It is submitted that age of the prosecutrix on the date of incident, according to the school register is 16 years and 2 months, hence, willingness of the prosecutrix or her consent for sexual intercourse is immaterial. There is prima facie a case against all the applicants. Hence, none of the applicants deserves to be enlarged on bail.

7. Heard learned counsel for the parties and perused the case diary.

8. The case against the applicants is this, that applicant Ajay Kumar Sonwani eloped with the minor prosecutrix on 16-08-2017. Thereafter, by keeping the prosecutrix in his own house and the house of the relatives he established physical relationship with the minor prosecutrix on various occasions. The prosecutrix was recovered on 05-09-2017. Thereafter, father of the prosecutrix lodged FIR against main accused Ajay Kumar Sonwani. Police after investigation arrayed all the applicants as accused in this case.

9. Considered on the submissions made and the contents of the case diary.

10. After overall consideration on the facts and circumstances of this case and taking into consideration this fact that investigation has been complete and charge sheet has been filed, all the applicants are local residents whose appearance before the trial Court can be ensured by imposing condition, hence, keeping the applicants in detention for the whole period of trial is not going to serve any purpose. Therefore, for these reasons, all the applications

filed under Section 439 of the applicants deserve to be allowed; and for the reason that arrest and detention of applicant Surajnath in MCRCA No.967/2017 is no longer required looking to the conclusion of the investigation, in the considered view of this Court, he deserves to be benefited with grant of anticipatory bail.

11. Consequently, the applications (MCRC No.7856/2017, MCRC No.6337/2017, MCRC No.6750/2017 and MCRC No.7312/2017) filed under Section 439 of the Cr.P.C. by the applicants for grant of regular bail are hereby allowed. It is directed that these applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

12. Also, prayer for anticipatory bail made by applicant Surajnath in MCRCA No.967/2017 is hereby allowed and the prayer made for anticipatory bail by other applicants in MCRCA No.967/2017 is dismissed as not pressed. It is directed that in the event of arrest of applicant Surajnath in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. He shall also abide by the following conditions :

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

13. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge