

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 5737 OF 2017

Shamim Ahamad S/o Munshi Khan, aged about 28 years, R/o village Kandi Tahsil Kotranka, District Rajouri Jammu Kashmir, present address 213-CRPF Camp G.Company Village Palnar, PS Kuwakonda, District South Bastar Dantewada (CG).

... Applicant

Versus

State of Chhattisgarh, through the Police Station Kuwakonda, District South Bastar Dantewada (CG).

... Respondent

For Applicant	:	Shri PK Tulsyan, Advocate.
For Respondent-State	:	Shri D.R. Minj, Govt. Advocate and Ms. M. Asha, Panel Lawyer.
For Objector	:	Shri Kishore Narayan, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/11/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 09.08.2017 in connection with Crime No. 30 of 2017 registered at Police Station Kuwakonda, Distt. South Bastar Dantewada, for the offence punishable under Sections 354,354(A) IPC, Section 10 of the POCSO Act and Sections 3(1)w(i) and 3(2)(5) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.
2. As per prosecution case, the allegation against the applicant is that on 31.07.2017 when there was a function in the School, the present applicant is said to have physically checked 16 girl students to outrage their modesty, all of whom were inmates of Gurukul Porta, Cabin-Palnar, Tribal Girls Hostel. Perusal of case diary would reveal that there were two accused persons one is the present applicant

and the other being Neeraj Kadwal, both of them being Constable in the CRPF.

3. Learned Counsel for the applicant submits that statement of 16 girl students who were subjected to search by the accused person have only stated that they were searched by only one Constable without naming any person, however, the police authorities have implicated two persons as accused in the case and that there is no sufficient evidence to determine or reach to a conclusion whether it was the present applicant or the other accused person who had searched the victims, and therefore, since there is a doubt in respect of identity of the persons conducting search on the victims, the present applicant may be released on bail.
4. Counsel for the State as well as Objector opposing the bail application submit that it is a case where the nature of allegations are very serious and that the present applicant and the co-accused person is said to have physically searched 16 girl students in a manner of outraging their modesty, and therefore, considering the gravity of the offence, the applicant may not be released on bail.
5. Considering the facts and circumstances of the case and the fact that on a specific query being put to the State counsel, they categorically admitted the fact that in the entire case diary there is reference of only one person searching the victims, however they were not able to give a plausible or satisfactory explanation for making two persons as accused in the instant case. Further, the State counsel is also not in a position to show as to on what basis the two accused persons were made as accused except for the test

identification which was made showing photographs of about 201 police personnels. No test identification was conducted producing the accused persons personally along with other unknown persons.

6. Given the aforesaid facts and the circumstances of the case and considering the period of custody undergone by the applicant, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
7. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-

(P. Sam Koshy)
Judge