

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 298 of 2016

1. Salma W/o Khushadil Ansari Aged About 50 Years Caste Muslim, Occupation Household Work, R/o Village & Post Udari, Police Station & Tahsil Lundra, District Surguja, Chhattisgarh.
2. Tabbasum W/o Gani Aged About 28 Years Caste Muslim, Occupation Household Work, R/o Village & Post Udari, Police Station & Tahsil Lundra, District Surguja, Chhattisgarh. --- **Petitioners**

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Adim Jati Kalyan Thana, Ambikapur, District Surguja, Chhattisgarh. --- **Respondents**

For the applicant	:	Mr. D. N. Prajapati, Advocate.
For the Respondent	:	Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.04.2016

1. Apprehending arrest in connection with Crime No. 23 of 2015 registered at Police Station Adim Jati Kalyan, Thana Ambikapur, District Surguja (C.G) for the offences punishable under section 363, 366, 376, 342, 506/34 of IPC and Sections 3(1)(x) & Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 4, 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, on 19.12.2015 a report was made by the prosecutrix that she came in contact with other accused who on the pretext of marriage committed sexual intercourse and after roaming at some different places, they went to Nawagarh and at that

time these applicants were present and had abused the prosecutrix in the name of caste.

3. Learned counsel for the applicants submits that no case is made out against these applicants and the allegations are against co-accused Afroz who has already been arrested. He further submits that even u/s 3(1)(x) of the Act, no case is made out as there was no intention to humiliate the prosecutrix.
4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. Perused the report of the prosecutrix wherein categorically it is stated that the prosecutrix and the complainant went to Nawagarh, at that time the applicants were present and she was abused in the name of caste and also stated that the prosecutrix do not deserve to become a wife being Aadiwasi Gond Gawar. Since such report has been made in the FIR, taking into such fact the bar under Section 18 of the SC/ST Act, 1989 would come into play for consideration of bail u/s 438 Cr.P.C. Therefore, I am not inclined to extend the benefit of section 438 Cr.P.C.
6. Accordingly, the application is rejected.

Sd/-
GOUTAM BHADURI
JUDGE