

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 639 of 2020

1. Sheikh Israil Khan @ Chhotu Khan S/o Shri Sherdil Mohammad, aged about 21 Years, R/o Panchshil Nagar City Kotwali Balodabazar, Tahsil Balodabazar, District Balodabazar Bhatapara (C.G.)

---- Appellant

Versus

1. The State Of Chhattisgarh, through the District Magistrate Balodabazar, District Balodabazar-Bhatapara (C.G.).
2. Smt. Dev Kumari Banjare W/o Dev Kumar Banjare, aged about 35 Years, R/o Purani Basti Balodabazar, P.S. City Kotwali, District Balodabazar Chhattisgarh, (C.G.)

---- Respondents

For Appellant	:	Shri Sunil Sahu, Advocate.
For Respondents/State	:	Shri D.R.K. Tiwari, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

19/11/2020

- 1) This appeal by the accused/appellant under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 24/07/2020 passed by the Special Judge (Atrocities), Balodabazar (C.G.) in Special Case POCSO No. 29/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 20/04/2020 in connection with Crime No. 254/2020 for the offence punishable under Sections 363, 354(D), 506, 384, 366, 376 of IPC, under Section 4 of the POCSO Act and under Section 3 (2)(v-A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station City Kotwali Balodabazar (C.G.).
- 2) Case of the prosecution, in brief is that the appellant enticed away the prosecutrix, a scheduled caste minor girl, from the

lawful guardianship of her parents and then subjected her to forcible sexual intercourse.

- 3) Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case due to previous enmity. In fact the prosecutrix herself went with the appellant as she was having affair with him but since her family members were against their relationship, he has been falsely implicated in this case. He submits that the appellant is in jail since 20/04/2020 charge sheet has already been filed and the trial is likely to take some time for conclusion.
- 4) On the other hand learned counsel for the State as well as the prosecutrix appearing in person opposes the submission made on behalf of the appellant.
- 5) Heard learned counsel for the parties and perused the case dairy.
- 6) Considering the facts and circumstances of the case, in particular the prima facie evidence regarding age of the prosecutrix showing her to be below 16 years and her statement under Section 164 of Cr.P.C. as well as the statements of other witnesses, this Court finds no illegality or perversity in the order impugned of the trial Court rejecting the bail application of the appellant.
- 7) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly dismissed.

-Sd/-
(Gautam Chourdiya)
Judge