

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 637 of 2020

- Shailesh Paikra S/o Shri Sajjan Paikra Aged About 28 Years Occu - Agriculture, R/o Village Bargidih (Parwatipur) P.S. And Tehsil Lundra, District Surguja (Chhattisgarh). **---- Appellant**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sitapur, District - Surguja (Chhattisgarh). **---- Respondent**

For Applicant : Shri Nishi Kant Sinha, Advocate
For Respondent/State : Shri Vimlesh Bajpai, G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

26/11/2020

- 1) Heard on admission.
- 2) I.A. No. 2/2020 application for amendment in the cause title is allowed.
- 3) The application is admitted for hearing.
- 4) This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 19.08.2020 passed by the Special Judge (Atrocities Act), Ambikapur, Surguja (C.G.) in Crime No. 51/2020, refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Sections 386, 376(2)(N) of IPC and 3(2-5) of I.P.C of SC/ST (Prevention of Atrocities Act 1989) registered at Police Station- Sitapur, District- Surguja (C.G.). The appellant is in jail since 21.07.2020.
- 5) Case of the prosecution, in brief, is that during the period from 3.9.2009 to 15.03.2020 the co-accused namely Md. Sahbaz Firdoushi had sexual intercourse with the prosecutrix at Manendragarh and thereafter, threatening her of life and defaming her by uploading her pictures on the internet if she disclosed the incident to anyone. The allegations against the

present applicant is that the he had once gone to the prosecutrix's house at the instance of co-accused for giving her message to him (Sahbaz Firdoushi) or else Sahbaz Firdoushi will defame her.

- 6) At the outset, learned counsel for the appellant seeks to withdraw both the applications (I.A. No.1/2020 & I.A. No.2/2020).
- 7) Accordingly, both the above applications are dismissed as withdrawn.
- 8) Learned counsel for the applicant submits that the applicant is falsely implicated in this case. He further submits that namely Sahbaz Firdoushi has already been granted bail by this Court vide order dated 18.11.2020 in CRA No. 698 of 2020. He further submits that the applicant Shailesh Painkra is also a member of Scheduled Tribes community as is evident from the permanent caste certificate filed by alongwith covering memo in this appeal.
- 9) On the other hand, learned State counsel opposes prayer of the appellant for grant of bail. However, learned State counsel does not dispute that the appellant is also member of Scheduled Tribes community.
- 10) I have heard learned counsel for the parties, considering the nature of allegation against the appellant, the admitted fact that the appellant is also a member of Scheduled Tribe community and that main accused in this case Sahbaz Firdoushi has already been released on bail by this Court, without expressing any opinion on merits of this case, I am inclined to release him on bail. Accordingly, the appeal is allowed. It is directed that in the even of appellant executing a personal bond for a sum of Rs. 25,000/- with two equivalent sureties for the like amount to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-
 - (i) 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 the Court,

(ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

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

(iv) He shall not involve himself in any offence of similar nature in future.

(Gautam Chourdiya)
Judge

Nadim