

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 656 of 2020

- Upendra Das S/o Shri Somaru Das, Aged about 24 years, R/o Mahrajanj, Police Outpost – Ganesh Mod, Police Station – Balrampur, District Balrampur – Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through: The Station House Officer, Police Outpost Ganesh Mod, Police Station – Balrampur, District Balrampur - Ramanujganj (C.G.)

---- Respondent/State

For Appellant : Shri Rishi Rahul Soni, Advocate

For Respondent/State : Shri Rakesh Sahu, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

20.11.2020

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the impugned order dated 02.12.2019 passed by the Special Judge (Atrocities) Act, Balrampur at Ramanujganj (C.G.) in Special Sessions Case (Atrocities) No. 41/2019, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 11.09.2020 in connection with Crime No. 66/2018 for the offence punishable under Sections 363, 366 & 376 (2) (n) of IPC; Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 5 punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station- Balrampur, District Balrampur - Ramanujganj (C.G.).
2. Allegation against the accused/appellant is that on 21.03.2018, the appellant had kidnapped/abducted the prosecutrix/victim on the enticement of marrying her from the lawful guardianship of her father and went to Banaras where the prosecutrix was kept in a room taken on rent by the appellant. Both the appellant and the prosecutrix stayed there from 21.03.2019 to

29.03.2019 and during this period, the appellant committed sexual intercourse with the prosecutrix.

3. Prosecutrix is connected through video conferencing from District Legal Services Committee, Balrampur with her counsel Shri Sangeet Kumar Kushwaha and they have no objection of grant of bail to the appellant by this Court.
4. Learned counsel for the appellant submits that in this case, no offence was committed by the appellant and it is the first bail application of the appellant. He further submits that the star witnesses of the case namely PW-1 Munnaram, PW-2 Mandodari Devi & PW-3 Ramjeet (father, mother & uncle of the prosecutrix), PW-4 Libnath Yadav and PW-5 Prosecutrix have been examined, but they did not support the prosecution case. Therefore, the appellant may be released on bail.
5. Learned counsel for the State submits that this is the first bail application of the appellant and he also accept this fact that before the trial Court, the prosecutrix and her parents have not supported the prosecutions case.
6. I have heard learned counsel for the parties and perused the material available.
7. Considering the facts and circumstances of the case, particularly considering the fact that the prosecutrix herself (PW-5) and her parents namely Munnaram (PW-1) & Mandodari Devi (PW-2) who have not supported the prosecution case, further considering the fact that the appellant is in jail since 11.09.2019, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is allowed and the impugned order is set aside.
8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.25,000/- with one surety 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 dissuade him from disclosing such fact to the Court.
- ii. He shall not act in any manner which will be prejudicial to fair and expeditious trial.
- 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.

Sd/-

(Gautam Chourdiya)
Judge

vatti