

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 630 of 2020

1. Durgesh Kumar Bareth S/o Late Hari Ram Bareth, Aged About 25 Years, R/o Sharda Manglam, Ward No. 18, P.S. Janjgir, District - Janjgir-Champa (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh Through - S.H.O., P.S. Janjgir, District Janjgir-Champa (C.G.).

---- Respondent

For Appellant	:	Shri Ravindra Sharma, Advocate.
For Respondent/State	:	Shri Rakesh Sahu, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

14/12/2020

- 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 13/08/2020 passed by the Special Judge (Atrocities Act), Janjgir-Champa (C.G.) in Bail Application No. 550/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 04/05/2020 in connection with Crime No. 218/2020 for the offence punishable under Sections 363, 366 & 376 of Indian Penal Code, under Section 4 & 6 of POCSO Act and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Janjgir, District Janjgir-Champa (C.G.).
- 2) Allegation against the appellant is that he kidnapped the prosecutrix, a minor girl on 29/04/2020 and kept her with him till 03/05/2020 when she was recovered by the Police from his

possession. During this period, the appellant had physical relation with her repeatedly.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that in fact the prosecutrix herself had eloped with the appellant of her own will as they are having love affair and a false report has been lodged against him by her under the pressure of her family members. He submits that Co-ordinate Bench of this Court in similar matters has granted bail to the accused vide ***order dated 28/01/2019 passed in MCRC No. 8033/2019, Janak Lal Nishad @ Manharan V/s State of Chhattisgarh and vide order dated 16/09/2020 passed in MCRC No. 4740/2020, Khilesh Verma V/s State of Chhattisgarh***. He lastly submits that the appellant is in jail since 04/05/2020, charge sheet already been filed noting is required to be seized from the appellant and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
- 4) Learned counsel for the State also opposing the submission made by the appellant's counsel submits that the trial Court has rightly rejected the bail application of the appellant and there is no illegality or infirmity in the same warranting interference by this Court.
- 5) After service of notice, the prosecutrix alongwith her father appeared before this Court through video conferencing from DLSA, Janjgir on 13/10/2020 and raised objection to grant of bail to the appellant.
- 6) Heard learned counsel for the parties and perused the case dairy.
- 7) Considering the facts and circumstances of the case, the prima facie age of the prosecutrix i.e. 17 years 9 months and 5 days, her statements under Section 164 and Section 161 of Cr.P.C., defence of the appellant that she was having love affair with the

appellant, her conduct and the fact that the charge sheet has already been filed, the detention period of the appellant and that the trial is likely to take some time for conclusion, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is **allowed**. It is directed that in the event of appellant executing a personal **bond** for a sum of **Rs. 50,000/-** with two sureties of Rs. 25,000/- each 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, 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.

-Sd/-
(Gautam Chourdiya)
Judge