

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 645 of 2020

- Suraj Kumar Sahu, S/o Munna Lal Sahu, Aged 21 years, R/o Village Koilari, P.S. Singhanpur Jangle, District Kabirdham (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh Through: Station House Officer, Singhanpur Jangle, District Kabirdham (C.G.)
2. Ramdayal Dhurve, S/o Dashrath Dhurve, R/o Koyaleri, P.S. Singhanpur (Jangle)

---- Respondents/State

For Appellant	:	Shri Ajay Ayachi, Advocate
For Respondent/State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General
For Objector	:	Shri Sudhir Kumar Verma, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

14.12.2020

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 order dated 10.08.2020 passed by the Special Judge (Atrocities Act), District Kabirdham (C.G.) in Special Case (Atrocities) No. 479/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 15.06.2020 in connection with Crime No. 35/2020 for the offence punishable under Sections 363, 366 & 376 of IPC; Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1) (xii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Singhanpuri Jangle (C.G.).
2. As per prosecution story, father of the prosecutrix lodged a missing report against unknown person that he has taken away her daughter. On this, while investigating the case, the prosecutrix was found at Village Lalpur, District Kawardhat from the possession of the present appellant. Allegation against the accused/appellant is that on 12.06.2020, the appellant had kidnapped/abducted the prosecutrix/victim on the enticement of marrying her

from the lawful guardianship of her father and went to Kawardha and he committed sexual intercourse with the prosecutrix.

3. Prosecutrix alongwith her father was connected through video conferencing with their counsel Shri Sudhir Kumar Verma on 25.11.2020 and they have raised objection to grant of bail to the appellant by this Court. On that date, it is also stated by father of the prosecutrix that the prosecutrix is suffering from mental ailment. But, prima facie, no such mental ailment is seen by this Court in the prosecutrix as contended by learned counsel for the objector and no such document regarding mental ailment has been filed by counsel for the objector.
4. Learned counsel for the appellant submits that in this case, the appellant has been falsely implicated in this case. In fact, the prosecutrix and the appellant were having affair. He submits that the prosecutrix more than 17 years of age. He further submits that the appellant is in jail since 15.06.2020, he has no criminal antecedents, and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
5. On the other hand, learned counsel for the State as well as learned counsel for the objector oppose the appeal.
6. I have heard learned counsel for the parties.
7. Considering the statement of the prosecutrix under Section 164 Cr.P.C. and Section 161 Cr.P.C., she was having affair with the accused/appellant and the age of the prosecutrix is mentioned as 17 years, as per the document filed by the appellant, the father of the prosecutrix has filed an application before the S.D.M.(R), Kawardha, District Kabirdham on 26.05.2020 for permission of marriage of the prosecutrix in which the date of birth of the prosecutrix was mentioned as 15.08.1994, the fact that the prosecutrix was having affair with the appellant for about 3-4 years and no F.I.R. lodged during this period, further considering the fact that the appellant is in jail since 15.06.2020 and that conclusion of the trial is likely to take some time,

without expressing any opinion on the 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 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.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.
- 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