

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 747 of 2020

- Navin Tiwari, S/o Shri Om Prakash Tiwari, aged about 30 years, R/o Kududand, P.S. Civil Line, District Bilaspur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through, Police Station Civil Line, District Bilaspur (C.G.)

---- State/Respondent

For Appellant	:	Shri C. Jayant K. Rao, Advocate
For Respondent/State	:	Shri Vimlesh Bajpai, Government Advocate
For Objector	:	Shri K.P.S. Gandhi, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

19.11.2020

1. This appeal has been preferred under Section 14(A) (ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against impugned order dated 26.08.2020 passed by learned Special Judge, SC & ST (PA) Act 1989 in Bail Application No. 1200/2020, whereby the Special Judge has rejected bail application of the appellant preferred under Section 439 of Cr.P.C. which relates to Crime No. 801/2019, registered at Police Station Civil Line, District Bilaspur (C.G.) for the offence punishable under Sections 294, 323 & 506/34 of IPC and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. According to the case of the prosecution, initially on 17.10.2019, the prosecutrix in this case lodged F.I.R. against the present appellant, on the basis of report made by the prosecutrix, offence under Sections 376 & 506 of IPC had been registered against him. Thereafter, the appellant was granted benefit of anticipatory bail by the coordinate bench of this Court vide

order dated 03.03.2020 passed in M.Cr.C.(A) No. 1918 of 2019. Thereafter, the present F.I.R. has been filed by the prosecutrix alleging therein that on the date of incident present appellant and other co-accused persons harassed the prosecutrix to withdraw her complaint and threatened her that they will kill her brother. On the basis of said report, initially offence under Section 506/34 of IPC was registered. Later on during the course of investigation, offence under Sections 294 & 323 of IPC as well as offence under Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 since the prosecutrix belongs to Scheduled Caste community were added. The appellant was arrested on 25.08.2020. Thereafter, the appellant filed an application under Section 439 of Cr.P.C. before the learned Special Judge, SC & ST (PA) Act 1989, Bilaspur (C.G.) and the said application has been rejected by the learned Special Judge vide impugned order dated 26.08.2020. Hence this appeal.

3. Learned counsel for the appellant submits that the appellant has been granted benefit of anticipatory bail by the coordinate bench of this Court vide order dated 03.03.2020 passed in M.Cr.C.(A) No. 1918 of 2019. Thereafter, to create pressure false and fabricated report has been lodged by the prosecutrix against the present appellant. He further submits that the appellant has been falsely implicated in this crime and conclusion of the trial is likely to take some time, therefore, it is prayed that the appellant may be released on bail.
4. Per contra, learned counsel for the State as well as learned counsel for the Objector oppose the appeal. State counsel submits that there are total 13 previous antecedents against the present appellant, it appears that the present appellant is a known criminal, therefore, the instant appeal of the appellant be dismissed.
5. In reply, learned counsel for the appellant submits that though there are total 13 cases registered against the appellant but out 13 cases, the appellant

has been acquitted in 08 cases and 03 cases are pending. He also submits that one of the co-accused persons namely Shailendra Singh has already been enlarged on bail by the coordinate bench of this Court on 12.10.2020 passed in Cr.A. No. 658 of 2020 and, therefore, the present appellant may also be released on bail.

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 initially offence under Section 506/34 of IPC was only registered and later on during course of investigation, offence under Sections 294 & 323 of IPC and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been added, further considering the fact that the appellant is in jail since 25.08.2020 and one of the co-accused persons namely Shailendra Singh has already been granted bail by the coordinate bench of this Court, without commenting on merits of the case, I am inclined to release the present appellant on bail.
8. Accordingly, the appeal is allowed. The impugned order is set-aside.
9. It is directed that the appellant shall be released on bail on executing a personal bond for a sum of Rs.25,000/- with one local solvent surety for the like sum to the satisfaction of the trial Court for his appearance before the said Court as and when directed.

Sd/-
(Gautam Chourdiya)
Judge