

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 703 of 2020

1. Jainarayan Yadav S/o Ramnath Yadav Aged About 34 Years R/o Village Bakalo, Outpost Umeshwarpur, Police Station And Tahsil Premnagar, District- Surajpur (C.G.).

---- Appellant

Versus

1. State of Chhattisgarh Through- Station House Officer, Police of Police Station AJAK Surajpur, District Surajpur (C.G.).

---- Respondent

For Appellant	:	Shri Anil Gulati, Advocate.
For Respondent/State	:	Shri Rakesh Sahu, Dy. Govt. Advocate.
For Prosecutrix	:	Shri Vinod Kumar Jaiswal, Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Judgment On Board

20/11/2020

- 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 21/05/2020 passed by the Special Judge (SC/ST Act), Surajpur, District Surajpur (C.G.) in Bail Application No. 139/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 10/12/2019 in connection with Crime No. 108/2019 for the offence punishable under Section 376 of IPC and under Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station AJAK Surajpur (C.G.).
- 2) Allegation against the appellant is that on 05/12/2019 at 09:00 PM when the prosecutrix went towards Kothar of her house for bringing wood, the appellant came from behind and had forcible sexual intercourse with her. On report being lodged by the prosecutrix against the appellant, the aforesaid offence has been

registered against him.

- 3) Learned counsel for the appellant submits that in this case the prosecutrix was a consenting party and when husband of the prosecutrix saw the incident, he assaulted upon the prosecutrix therefore, injury was found on the body of the prosecutrix. Further, FIR is lodged after 4 days delay and no any specific reason has been given by the prosecutrix, therefore, the applicant be released on bail.
- 4) Prosecutrix is connected through video conferencing from District Legal Service Authority, Surajpur with her counsel Shri Vinod Kumar Jaiswal and they oppose the submission made by the appellant's counsel. She submits that due to pressure exerted by the villagers she did not object to the bail application but she is not in favour of releasing the accused on bail.
- 5) 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.
- 6) Heard learned counsel for the parties and perused the case dairy.
- 7) Considering the facts and circumstances of the case, the objection raised by the prosecutrix through video conferencing, the injury found on her person, her statement under Section 161 of Cr.P.C. and the charge sheet which do not disclose anywhere about consensual relationship of the prosecutrix with the appellant, this Court is of the opinion that there is no illegality or perversity in the order impugned of the Trial Court rejecting the bail application of the appellant.
- 8) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly dismissed.

-Sd/-
(Gautam Chourdiya)
Judge