

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 649 of 2020

Rajesh Patel S/o Mehatar Patel Aged About 29 Years R/o Gudipara
Raikot District Bastar Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh, Through Police Station - Parpa / AJAK District
Bastar Chhattisgarh.

---- Respondent

For Appellant : Mr. Vikash A. Shrivastava, Advocate.
For Respondent/State : Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment On Board

28/10/2020

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 28.08.2020 passed by learned Special Judge, (SC/ST Act), Jagdalpur, District Bastar (C.G.) in B.A. No. 273/2020, in Sp. S.T. No. 06/2020, whereby the Trial Court has rejected bail application of the appellant preferred under Section 439 of Cr.P.C. which relates to crime number 32/2020, registered at Police Station Parpa / AJAK, District Bastar (C.G.) for the offence punishable under Sections 376 of the IPC and Section 3(2)(V) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.
2. In this case, the age of the prosecutrix at the relevant time was about 20 years. It is has been alleged that from last one year of lodging FIR, on the pretext of marriage, the Appellant had been

committing sexual intercourse with the prosecutrix on various occasions thereafter refused to marry with her. On the basis of said background, the prosecutrix has lodged FIR against the Appellant and offence has been registered against him. The Appellant is in custody since 06.06.2020. The Appellant has preferred an application under Section 439 of Cr.P.C. before the Court of Learned Special Judge (SC/ST Act), Jagdalpur, District Bastar and the same has been rejected by the learned Judge vide order 28.08.2020 passed in BA No. 273/2020 in Sp. ST No. 06/2020. Hence, this appeal.

3. Learned Counsel appearing on behalf of the Appellant submits that the appellant is innocent and falsely implicated in the present case. He further submits that the prosecutrix is a major lady, there was a love relationship between the applicant and the prosecutrix. From the statement of prosecutrix recorded under Section 164 of Cr.P.C., it appears that she was a consenting party in the alleged act. The Counsel further submits that the Appellant is still ready to solemnize marriage with the prosecutrix but family members of the prosecutrix are not agreed for the same. The Counsel lastly submits that the prosecutrix has no objection if the bail may be granted to the Appellant. The Appellant is in custody since 04.06.2020, charge-sheet has already been filed and trial is likely to take some time to conclude. Therefore, it is prayed that the Appellant may be released on bail.
4. Per contra, learned Counsel appearing on behalf of the State opposes the appeal.
5. I have heard learned Counsel for the parties and perused the material available.
6. Considering the facts and circumstances of the case, evidence

collected by the prosecution, arguments advanced by learned counsel appearing for the parties and further considering the statement of the prosecutrix recorded under Section 164 of Cr.P.C., detention period of the Appellant and the fact that vide order dated 20.10.2020 of this Court, the prosecutrix appeared in person through video conferencing and supported the bail application preferred by the Appellant before this Court, without further commenting on other merits of the case, I am inclined to release the Appellant on bail.

7. Accordingly, the appeal is allowed. The impugned order is set-aside.
8. 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/-
(Arvind Singh Chandel)
Judge