

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 664 of 2020

- Ramkumar Gond S/o Mansharam Gond Aged About 41 Years R/o Village Badna, Police Station Kukdur, District Kabirdham Chhattisgarh

---- Appellant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Kukdur, District Kabirdham Chhattisgarh

---- Respondent

For Appellant	:	Mr. Dharmesh Shrivastava, Adv.
For Respondent/State	:	Ms. Veena Nair, Dy. G.A.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

18.11.2020

1. Heard.
2. The appellant has filed this appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 07.09.2020 passed in Special Case No.587/2020 by Special Judge (Atrocities Act) District – Kabirdham rejecting his application under Section 439 of the Cr.P.C. The appellant is in jail since 15.07.2020 in connection with offences under Sections 376, 506/34 of IPC, Section 4 & 6 of the Protection of Children from Sexual Offences, Act, 2012 and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station – Kukdur, District – Kabirdham, Chhattisgarh.

3. According to the case of the prosecution, on 26.06.2020 when prosecutrix and her husband went to the house of present appellant for receiving labour payment, the other accused namely Ram Bai Yadav took her in the second floor, where the present appellant along with Buddhu and one unknown person was sitting. It is alleged that Buddhu had bolted the door and window from inside and the accused/appellant had committed forcible sexual intercourse with her. The prosecutrix was taken into the room at 5.00 pm and confined there till 8.00 pm. Thereafter, the present appellant along with other co-accused threatened the prosecutrix and her husband of dire consequences if they disclosed this incident to anyone. Based on this, the FIR was lodged on 29.06.2020 against the present appellant and other co-accused persons under Sections 376 and 506/34 of the IPC. After completion of investigation charge sheet was filed against the present appellant and other accused persons under Sections 376, 506/34 of the IPC and Section 4 & 6 of the Protection of Children from Sexual Offences, Act, 2012 and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case, as there is delay of three days in lodging of FIR. He further submits that in fact the prosecutrix herself went to the house of the appellant. As per the prosecution case, she was confined in the room for three hours and subjected to rape, during this period and at that time her husband was waiting for her downstairs. The story put forth by the prosecution appears to be highly improbable for the reason that the husband of the prosecutrix did not make any effort to contact the prosecutrix during the said period and further, the FIR was lodged with an inordinate delay of

three days which clearly suggests a false implication of the present appellant. More so, medical report of the prosecutrix also does not support the prosecution case as no injury, internal or external was found on the person of the prosecutrix.

5. As per office report dated 17.11.2020, though notice has been served upon the victim/prosecutrix, but neither the victim is present nor any representation on her behalf is made.
6. On the other hand learned counsel for the State opposes the submission made by counsel for the appellant and supports the impugned order.
7. Having heard learned counsel for the parties, having considered the nature and quality of evidence collected by prosecution for far as is reflected from the case diary, delay in lodging the FIR, the medical report of the prosecutrix, the fact that husband of the prosecutrix was very much present in the same premises where the prosecutrix was confined in a room for nearly about three hours and no action was taken by him and that the charge sheet has already been filed and disposal of appeal is likely to take some time, without commenting on merits of the case I am 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.25,000/- with two equivalent sureties for the like amount 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