

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 725 of 2020**

Rohini Prasad Upadhyay S/o Late Mohan Prasad Upadhyay, Aged About 28 Years, Caste: Bramhan, R/o Village Bagra Basti, Police Station: Pendra, District: Pendra Gaurela Marwahi Chhattisgarh

---- Appellant

Versus

State of Chhattisgarh through Station House Officer, Police Station: Pendra, District Pendra Gaurela Marwahi, Civil District: Bilaspur, Chhattisgarh.

---- Respondent

For Appellant	: Mr. Syed Imtiaz Ali, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A.
For Victim	: Mr. Suresh Tandon, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment On Board

06.11.2020

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 20.07.2020 passed by learned Additional Sessions Judge (FTC), Bilaspur (C.G.) in Bail Application No.858/2020, whereby the Trial Court has rejected regular bail application of the appellant preferred under Section 439 of Cr.P.C. which relates to Crime Number: 283/2015, registered at Police Station: Pendra, District: Pendra Gaurela Marwahi (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC, Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 04 & 06 of POCSO Act.

2. In this case, the age of the prosecutrix is about 21 years. Father of the prosecutrix made a missing report of her daughter on 01.12.2015. During course of investigation, on 02.07.2020, the prosecutrix was recovered from the possession of the present Appellant. Thereafter, her statement under Section 161 of Cr.P.C. was recorded and on the basis of her statement, offence was registered against the present Appellant. During course of investigation, on 03.07.2020, the Appellant was arrested. Thereafter, the Appellant filed an application under Section 439 of Cr.P.C. before learned Additional Sessions Judge (F.T.C), Bilaspur (C.G.) and the said has been rejected by the learned Special Judge vide order dated 20.07.2020. 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. Virtually, there was a love relationship between the prosecutrix and the present Appellant, due to which, the prosecutrix herself left her house and both Appellant and the prosecutrix performed marriage at temple and they have also submitted their marriage certificate. Out of their wed-lock, one daughter was born who is aged about 03 years. Learned counsel further submits that prosecutrix is residing with her in-laws and she has no objection for grant of bail to the Appellant, 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. Prosecutrix has appeared through Video Conferencing along with her counsel Suresh Tandan, Advocate through the Help Desk of this

Court. She has duly supported the appeal preferred by the Appellant.

6. I have heard learned Counsel for the parties and perused the material available in record.
7. Considering the facts and circumstances of the case, particularly considering the fact that in her statement recorded under Section 164 of Cr.P.C, prosecutrix has stated that she has performed marriage with the Appellant, she is residing with her in-laws and she is having one child who is aged about 03 years and further considering the fact the the Appellant is in jail since 03.07.2020, without further commenting on other merits of the case, I am inclined to release the 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.
10. Certified copy, as per rules, to be supplied today.

**Sd/-
(Arvind Singh Chandel)
Judge**