

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 719 of 2020

1. Ajay Das S/o Shri Anandi Das, aged about 24 Years, R/o Village P.V. 118, Ratanpur, Thana- Pakhanjur, Civil & Revenue District North Bastar Kanker (C.G.) (wrongly mentioned PV 1118 in order)

---- Appellant

Versus

1. State of Chhattisgarh Through- The District Magistrate Kanker, District North Bastar Kanker (C.G.).

---- Respondent

For Appellant	:	Shri Sumeet Shrivastava, Advocate.
For Respondent/State	:	Shri Vimlesh Bajpai, Govt. Advocate.
For Prosecutrix	:	Shri Sagar Gupta, 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 29/06/2020 passed by the Special Judge (SCST), Uttar Bastar Kanker (C.G.) in Bail Application No. 123/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 20/12/2019 in connection with Crime No. 189/2019 for the offence punishable under Section 363, 366, 376 of Indian Penal Code and under Section 04, 06 of the POCSO Act and under Section 3 (1)(w), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Pakhanjur District North Bastar Kanker (C.G.).
- 2) Case of the prosecution in brief is that on missing report being lodged by father of the prosecutrix that the prosecutrix went missing from November 2019, the Police registered the offence

under Section 363 of IPC and during investigation on 20/12/2019 the prosecutrix was recovered from the possession of the appellant and thereafter having completed the investigation charge sheet under the aforesaid sections has been filed against the appellant.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. In fact there was love affair between the appellant and the prosecutrix and physical relation with the prosecutrix was consensual as is evident from her statements recorded under Sections 161 and 164 of Cr.P.C. He submits that there is no conclusive evidence to show that the prosecutrix was minor on the date of incident. The appellant is in jail since 20/12/2019 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
- 4) Prosecutrix is connected through video conferencing from District Legal Services Authority, Kanker with her counsel Shri Sagar Gupta and they oppose the submission made by the appellant's counsel. She submitted that she has conceived though sexual intercourse by the accused, therefore, she wants that the accused should be released from jail.
- 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) Considering the facts and circumstances of the case, though the prosecutrix has made no objection to grant of bail to the appellant but looking to the material available in the case diary which prima facie show the prosecutrix to be below 18 years and that charge sheet has already been filed and the trial in progress, this Court does not find any illegality or perversity in the order impugned rejecting the bail of the appellant.

- 7) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly dismissed.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant