

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 698 of 2020**

- Md. Sahbaz Firdoushi @ Monty, S/o Abdul Jabbar, aged about 24 Years, R/o Village- Bargidih, P.S. and Tehsil Lundra, District-Surguja, Chhattisgarh.

----Appellant

Versus

- State of Chhattisgarh, Through the Police Station Sitapur, District-Surguja, Chhattisgarh.

---- Respondent

For Appellant
For State

Mr. Jitendra Shrivastava, Advocate.
Ms. Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

18/11/2020

1. Prosecutrix is present in person and prays for appointment of a counsel through High Court Legal Aid to argue on her behalf in this appeal.
2. Shri Sunil Sahu, Advocate, present in the Court, empaneled Lawyer of High Court Legal Services Committee, on being asked by this Court, is ready to argue the matter. Therefore, this Court appoints Shri Sunil Sahu, Advocate to argue the matter on behalf of the prosecutrix. Registry is directed to inform High Court Legal Services Committee in this regard for doing the needful.
3. This appeal by the accused/appellant under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 read with Section 378 (4) of the Cr.P.C. is directed against the order dated 31.08.2020 passed by the Special Judge (Atrocities), Ambikapur, District Surguja, C.G. in Bail Application No.551/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 04.05.2020 in connection with Crime No.51/2020 for the offence punishable under Sections 386, 376 (2)(n) of IPC and under Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sitapur, District Surguja, C.G.

4. Case of the prosecution, in brief, is that on 03.09.2009 when prosecutrix was going to School, at that time accused/appellant met her and told her that *I had seen you in marriage and from that time I know you* and thereafter appellant took her to visit Mangrelgarh Temple where he committed sexual intercourse with her and threatened her of life if she disclosed the incident to anyone. On 01.05.2020, she informed her family about the incident and on 04.05.2020, report to the above effect being lodged by the prosecutrix, offence under the aforesaid sections were registered against the accused/appellant.
5. Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case. He also submits that prosecutrix has lodged the FIR after the inordinate delay of 11 years on 04.05.2020 and no proper explanation has been given by the prosecutrix regarding such a

delay in lodging the FIR. He also submits that from perusal of her statement, it seems that there was love affair between the appellant and the prosecutrix and that she was a consenting party. In these circumstances, *prima facie*, no offence can be made out against the appellant. He is in custody since 04.05.2020 and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.

6. Per contra, learned Counsel appearing on behalf of the State, as well as the prosecutrix and her counsel oppose the submission made by counsel for the appellant.
7. I have heard learned Counsel for the parties.
8. Considering the facts and circumstances of the case and the statement made by the prosecutrix that the appellant had first committed sexual intercourse with her on 3rd September, 2009 and continuously made physical relations with her from 2009 to 2020, the inordinate delay of 11 years in lodging the FIR, the fact that the appellant is in custody since 04.05.2020, and trial is likely to take some time for conclusion, without further commenting on merits of the case, I am inclined to release him on bail. 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

Akhilesh