

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Criminal Appeal No. 697 of 2020

- Kishan Yadav, S/o Kunwar Singh Yadav, aged about 25 years, R/o Sanjari, Chowki- Sanjari, P.S. Daundilohara, District Balod (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through: Station House Officer, Police Station- Daundilohara, District Balod (C.G.)

---- Respondent/State

For Appellant : Ms. Aditi Singhvi, Advocate

For Respondent/State : Shri Vimlesh Bajpai, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

14.12.2020

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 16.07.2020 passed by the Special Judge (SC/ST Act), Balod, District Balod (C.G.) in Special Sessions Case No. 50/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 02.06.2020 in connection with Crime No. 139/2020 for the offence punishable under Section 376 (2) (n) of IPC and Section 3(2) (v) (a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Daundilohara, District Balod (C.G.).
2. Allegation against the accused/appellant is that on pretext of marriage, the appellant committed sexual intercourse with the prosecutrix and thereafter he refused to marry her.
3. Prosecutrix alongwith her brother namely Yuvraj Halwa appeared before this Court in person and they have no objection to grant of bail to the appellant by this Court.
4. Learned counsel for the appellant submits that in this case, it is the first bail application of the appellant, he is an innocent person and has been falsely implicated in this case. Learned counsel submits that the prosecutrix was

having affair with the appellant from year 2016 and she had physical relations with the appellant from 15.11.2019 to 28.02.2020 with consent and at present she is married to another person. In these circumstances, *prima facie*, no offence can be made out against the appellant. He is in custody since 02.06.2020 and conclusion of the trial is likely to take some time. Therefore, the appellant may be released on bail.

5. On the other hand, learned counsel for the State opposes the appeal.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that the prosecutrix and the appellant are major and their affair continued from year 2016 to 2020, the prosecutrix has performed marriage with another person, further considering the fact that the appellant is in jail since 02.06.2020, and that conclusion of the trial is likely to take some time, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is allowed and the impugned order is set aside.
8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each 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.
 - 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