

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 732 of 2020

1. Rakesh Tiwari S/o Pradeep Tiwari, aged about 31 Years, R/o Nehru Nagar, Umarpoti, Police Station Nevai, Tahsil and District Durg (C.G.).

----Appellant

Versus

1. The State Of Chhattisgarh, Through Station House Officer, Police Station Nevai, District Durg (C.G.).

---- Respondent

For Appellant	:	Shri Rajkumar Pali, Advocate.
For Respondent/State	:	Shri Vimlesh Bajpai, Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Judgment On Board

09/12/2020

- 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 02/07/2020 passed by the Additional Sessions Judge, 4th F.T.C. Special Judge, Durg (C.G.) in Bail Application No. 1329/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 13/06/2020 in connection with Crime No. 181/2020 for the offence punishable under Section 376, 376(2) (n) of Indian Penal Code, Section 4 & 6 of POCSO Act, 2012 and under Section 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Nevai, District Durg (C.G.).
- 2) Case of the prosecution in brief is that prosecutrix lodged a written report against the appellant at the Police Station that the appellant is running a coaching class where prosecutrix used to go for studying. The appellant on the allurement of getting her pass in the examination and making her carrier, forcibly had

physical relation with her on 04/12/2018 and continued to do so even thereafter on the threat of defaming her.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that in fact the appellant is running a Coaching class where the prosecutrix would come for studying and the appellant and the prosecutrix are neighbours. It has been alleged by the prosecutrix that the appellant obtained Rs. 63,000/- from her family members on the pretext of getting free electricity for 5 years as per scheme of the Gram Panchayat. He submits that the prosecutrix visited several places i.e. Berla, Bemetara, Khairagarh, Raipur & Supela with accused willingly as she was having affair with him and no forcible sexual intercourse has been committed by the appellant with the prosecutrix. According to the prosecution case, the prosecutrix was being physically exploited since, 2018 but no any complaint was made by the prosecutrix to anyone or her family members against the act of the appellant till lodging of FIR on 12/06/2020. He submits that Co-ordinate Bench of this Court in similar matters has granted bail to the accused vide ***order dated 28/01/2019 passed in MCRC No. 8033/2019, Janak Lal Nishad @ Manharan V/s State of Chhattisgarh and vide order dated 16/09/2020 passed in MCRC No. 4740/2020, Khilesh Verma V/s State of Chhattisgarh***. He lastly submits that the appellant is in jail since 13/06/2020, charge sheet already been filed noting is required to be seized from the appellant and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
- 4) 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.
- 5) Heard learned counsel for the parties and perused the case dairy.

- 6) Prosecutrix is connected through video conferencing from District Legal Service Committee, Durg and she objected of the Rakesh Tiwari on bail.
- 7) Considering the facts and circumstances of the case, delay in lodging the FIR as according to the prosecutrix the appellant had first physical relation with her on 04/12/2018 and thereafter continued to do so, that she visited various places with the appellant and two other girls, the conduct of the prosecutrix, statements of the neighbours and landlord of the coaching institute, the fact that in the similar matters the Co-ordinate Bench has granted bail to the accused, the charge sheet has already been filed, the detention period of the appellant and that the trial is likely to take some time for conclusion, without commenting anything on 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**. 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, 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