

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 735 of 2020**

- Rohni Patel S/o Salikram, aged about 25 years, R/o- Village- Pamgarh, P.S. Kharsiya, District- Raigarh (C.G.).

---- Appellant**Versus**

- State of Chhattisgarh Through P. S. Champa, District- Janjgir-Champa (Chhattisgarh).

---- Respondent

For Appellant	:Mr. F. S. Khare, Advocate
For Respondent/State	:Dr. (Ms.) Veena Nair, Dy. G.A.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****09.12.2020**

1. Heard.
2. The appellant has filed this appeal under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 24.07.2020 passed in Crime No.124/2020 by Special Sessions Judge (Atrocities Act), Janjgir District – Jangir-Champa rejecting his application under Section 439 of the Cr.P.C. The appellant is in jail since 08.05.2020 in connection with offences under Sections 376 & 506 of IPC and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station – P. S. Champa, District –Janjgir- Champa (C.G.).
3. According to the case of the prosecution, the prosecutrix and the

accused were having friendship through Facebook. After one month of friendship, the accused called her(prosecutrix) at Champa in the house of his friend where he committed sexual intercourse with her on false pretext of marriage. Thereafter, again she has been called at Kharsiya district-Raigarh in a lodge and where also accused made sexual relationship with the prosecutrix but thereafter he refused to marry her. It is also alleged that the accused threatened the prosecutrix that he will also commit rape with her sister. Hence a written complaint was lodged on 2.05.2020 by the prosecutrix. On the basis of the said written complaint, the report has been registered under crime No. 124/2020 under Section 376 & 506 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case. The prosecutrix is a major girl aged about 21 years and no any false pretext of marriage or promise was given by the accused. He also submits that the prosecutrix & the accused were friends on Facebook and she willingly visited various places alongwith the accused. He further submits that continuously for two years, they had physical relationship. Therefore, no offence is committed by the appellant and it is prayed that he be released on bail.
5. Prosecutrix is present before this Court and she objected to the application filed by the appellant to release him on bail. She stated that she was having affair with the accused from 2018 but accused refused to marry her, therefore, she lodged FIR.
6. On the other hand, learned counsel for the State opposes the submission made by counsel for the appellant and supports the

impugned order.

7. Having heard learned counsel for the parties, having considered the nature and quality of evidence collected by prosecution, the accused & prosecutrix were major at the time of incident, they were having affair and physical relationship continuously for two years and the prosecutrix visited different places alongwith the accused, no prompt FIR was lodged, charge sheet has already been filed, the fact that there is no apprehension of the accused/appellant tampering with the evidence or absconding as stated by both the counsels for the parties and that disposal of the trial is likely to take some time, without commenting on merits of the case, I am 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.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**