

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 755 of 2020

1. Chain Singh Yadav @ Baldiwas @ Diwas S/o Shri Shyam Lal Yadav, Aged About 37 Years R/o Village Thenhi, Thana Mechka, District Dhamtari (C.G.).

---- Appellant

Versus

2. State Of Chhattisgarh Through The District Magistrate Dhamtari, District Dhamtari (C.G.)

---- Respondents

For Appellant	:	Shri Sunil Sahu, Advocate.
For Respondents/State	:	Shri Rakesh Sahu, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

14/12/2020

- 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 18/09/2020 passed by the Special Judge (S.C./S.T.Act), Dhamtari (C.G.) in Special Criminal Case (S.C/S.T. Act) No. 19/2019, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 07/08/2019 in connection with Crime No. 05/2019 for the offence punishable under Section 376 of IPC and under Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Mechka, District Dhamtari (C.G.).
- 2) Case of the prosecution, in brief is that on 05/08/2019 one Durgesh Halba informed the complainant that while he alongwith other villagers was sitting on 03/08/2019 at around 03:30 PM, he saw the accused appellant dragging the prosecutrix, a dumb girl, by hair and taking her into a room. When Durgesh pushed upon

the door he saw that the prosecutrix was half naked from waist side down and that the appellant was having sexual intercourse with her. On being informed by Durgesh to mother of the prosecutrix, she lodged a report on 06/08/2019 against the accused appellant.

- 3) Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case. The Trial court not appreciated the statements of the witnesses available on charge sheet properly. He submits that the prosecutrix is aged about 29 years, there is no apprehension of the accused appellant absconding, he is in jail since 07/08/2019 and the trial is likely to take some time for conclusion. Therefore, the appellant be released on bail.
- 4) On the other hand learned counsel for the State as well as the prosecutrix appearing in person alongwith her parents Shri Ram Singh and Smt. Laxmin opposes the submission made on behalf of the appellant. He submits that in this case prosecutrix was dumb, she is unable to speak anything and as per eye witness of the case accused committed forcible sexual intercourse with the prosecutrix, therefore, looking to the condition of the prosecutrix that she is dumb and statement of the eye witness and other evidence available in the record case dairy, there is no any perversity or illegality in the impugned order of the Trial Court.
- 5) Heard learned counsel for the parties and perused the case dairy.
- 6) It is not disputed by both the counsel for the parties that prosecutrix was dumb and she is unable to speak anything. She has come with her parents and their parents vehemently oppose the application filed by the appellant.
- 7) Considering the facts and circumstances of the case, the statement of the eye witness Durgesh, that the prosecutrix is a dumb girl, without commenting anything on merits of the case,

this Court finds no illegality or perversity in the order impugned of the trial Court rejecting the bail application of the appellant.

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

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

Chandrakant