

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 345 of 2021**

- Deepak Kumar Patel, S/o Kumar Ram Patel, aged about 23 Years, R/o Village Garhpichwadi, Tahsil Kanker, District Uttar Bastar Kanker, Chhattisgarh.

----Appellant

Versus

- The State of Chhattisgarh, Through Police Station AJAK Kanker, District Uttar Bastar Kanker, Chhattisgarh.

---- Respondent

For Appellant	Shri Parag Kotecha, Advocate.
For State	Shri Vimlesh Bajpai, Government Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

06/04/2021

1. Earlier the appellant had filed Criminal Appeal No.932 of 2020 which was dismissed on merits vide order dated 13.01.2021.
2. This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is directed against the order dated 05.11.2020 passed by the Special Judge (SC/ST Act), Uttar Bastar Kanker, C.G., refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 02.11.2020 in connection with Crime No.03/2020 for the offence punishable under Sections 376, 376(2)(ढ), 506(B) of Indian Penal Code and under Sections 3(1) (ढ) & 3(2)(v) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989 registered at Police Station Adim Jati Kalyan (AJAK), Kanker, District Uttar Bastar, Kanker, C.G.

3. Allegation against the appellant by the prosecutrix is that on the pretext of marrying her, appellant committed sexual intercourse with her. She also alleged that appellant continuously made physical relations with her for the last three years since 27.04.2017 and after some time appellant refused to marry her and left her. On report to the above effect being lodged by the prosecutrix, offence under the aforesaid sections were registered against the appellant.
4. Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case. He also submits that allegation against the appellant is false and fabricated. He further submits that the prosecutrix, a major girl of 20 years, has already married the appellant on 28.02.2021 in the jail premises with the consent of their family members and the duly notarized affidavits of the prosecutrix and the appellant have been filed along with the covering memo. Appellant is in custody since 02.11.2020 and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.
5. Prosecutrix appeared before this Court and she has not raised any objection to the appeal filed by the appellant to release the appellant on bail. She submits that she married the appellant in jail on 28th February, 2021. The prosecutrix has been duly

identified by the State counsel on the basis of her Aadhar Card.

6. Learned counsel for the State opposes the bail application.
7. Heard learned counsel for the parties and perused the case diary.
8. Considering the facts and circumstances of the case, the manner in which the incident is said to have taken place, in particular no objection on behalf of the prosecutrix to grant bail to the appellant, the fact that the appellant and prosecutrix were having love affair prior to lodging of the FIR i.e. 01.11.2020 and there had been physical relations between them on number of occasions and that prosecutrix married the appellant in jail premises on 28.02.2021, the marriage documents (i.e. Xerox of the photographs of marriage and newspaper cutting) submitted by counsel for the appellant along with the covering memo today, the affidavits of the parties regarding their marriage filed with the covering memo, further considering the matrimonial life of the prosecutrix and the appellant, the detention period of the appellant, who is 23 years old, and the fact that the appellant has no criminal antecedent and there is no likelihood of the appellant tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may 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. 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

Akhilesh