

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 326 of 2021**

- Pankaj Kumar Chouhan, S/o Meshram Chouhan, aged about 24 Years, R/o Gandhi Nagar, Police Station Gandhi Nagar, District Surguja, Chhattisgarh.

----Appellant**Versus**

- State of Chhattisgarh, Through Station House Officer, Police Station Adim Jati Kalyan (AJK) Ambikapur, District Surguja, Chhattisgarh.

---- Respondent

For Appellant	Mr. Sushil Dubey, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****17/03/2021**

1. Heard on admission.
2. The appeal is admitted for hearing.
3. With the consent of the parties, the matter is heard finally.
4. Earlier the appellant had filed Criminal Appeal No.11 of 2021 which was dismissed as withdrawn vide order dated 10.02.2021.
5. This appeal by the accused/appellant under Section 14-A(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is directed against the order dated 29.10.2020 passed by the Special Judge, (Atrocities), Surguja, Ambikapur,

C.G. in Bail Application No.805/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 19.10.2020 in connection with Crime No.11/2020 for the offence punishable under Section 376(2)(n) of Indian Penal Code and under Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Adim Jati Kalyan (AJAK), Ambikapur, District Surguja, C.G.

6. 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 she was having love affair with the appellant for the last two years prior to lodging of the FIR i.e. 19.10.2020 and appellant continuously made physical relations with her 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 section was registered against the appellant.
7. Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case. He also submits that there was love affair between the appellant and the prosecutrix, who is a major girl of 30 years. In these circumstances, *prima facie*, no offence can be made out against the appellant. He is in custody since 19.10.2020 and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.

8. Prosecutrix appeared before this Court and she has not raised any objection to the appeal filed by the appellant to release him on bail.
9. Learned counsel for the State opposes the bail application.
10. Heard learned counsel for the parties and perused the case diary.
11. 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 and prosecutrix has also sworn an affidavit before the Oath Commissioner/Notary vide Annexure A-3 that they are in love with each other and due to evasive reply of the appellant for marrying her she lodged the report against him and that there is no objection to his release on bail, the fact that the appellant and prosecutrix were having love affair prior to lodging of the FIR and there had been physical relations between them on number of occasions and that prosecutrix is residing with the family of the appellant, *prima-facie* the age of the prosecutrix i.e. 30 years, the detention period of the appellant, who is 24 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