

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 371 of 2021**

- Indrajeet Sinha S/o. Ramchandra Sinha aged about 24 years, residing at Village Mailawada (Kalarpara) P.S. Kuwakonda District South Bastar Dantewada (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through: The P.S. Adim Jati Kalyan Thana Dantewada District South Bastar Dantewada (C.G.)

----State/Respondent

For Appellant	:	Shri Amarnath Pandey, Advocate
For Respondent /State	:	Shri Anand Verma, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****23.09.2021**

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 08.03.2021 passed by the Special Judge, ST/SC, Act, South Bastar, Dantewada (C.G.), rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 06.03.2021 in connection with Crime No. 03/2021 for the offence punishable under Section 376 of IPC and Section 3 (1) (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Adim Jati Kalyan Thana, Dantewada, District South Bastar Dantewada (C.G.).
2. As per prosecution story, the prosecutrix lodged a report stating that in the year 2019, the appellant took her to Village Balood in the house of his friend Dinesh Yadav and on the pretext of marriage, he committed sexual intercourse with her in his friend's house. Thereafter, the appellant many times took the prosecutrix to his relatives' house and committed sexual intercourse with her. When the prosecutrix asked the appellant to marry her, then he refused to marry her. On the basis of said report, the offences under

the aforementioned sections were registered against the appellant.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in this crime. He submits that the appellant is in jail since 06.03.2021 and due to Covid-19, conclusion of the trial is likely to take some time, therefore, the appellant may be released on bail. Reliance has been placed on the decision of the Hon'ble Supreme Court in ***Pramod Suryabhan Pawar vs. State of Maharashtra and Another*** reported in ***(2019) 9 SCC 608*** and judgment dated 19.01.2021 passed by this Court in ***Mohinder Pal Kashyap vs. State of Chhattisgarh, Cr.A. No. 919/2020***.
4. On the other hand, learned counsel for the State opposes the appeal.
5. Prosecutrix is connected through video conferencing from District Legal Services Authority, Dantewada and she was identified by an employee of DLSA, Dantewada. Prosecutrix stated that she is ready to perform marriage with the appellant. But, when the prosecutrix went to jail to meet the appellant, the appellant stated her that merely for the purpose of obtaining bail, he had expressed his willingness to perform marriage with her but he is not willing to marry her. Therefore, she has objection to grant of bail to the appellant by this Court.
6. As per documents filed along with the covering memo by the appellant's counsel, it is seen that during counseling at Sakhi One Stop Centre, Dantewada, the appellant and the prosecutrix had consented for marriage. From the order dated 27.8.2021 of this Court, it is apparent that on the submission of learned counsel for the appellant that the appellant is ready to perform marriage with the prosecutrix and the willingness being expressed by the prosecutrix also for marrying the appellant, both of them were directed to make an application in this regard before the trial Court. In compliance of the said order, though the prosecutrix submitted an

application before the trial Court for marrying the appellant, the trial Court rejected the application of the prosecutrix. However, despite the appellant willingly stating before this Court as also before Sakhi One Centre for marrying the prosecutrix no such application was filed before the trial Court.

7. From the case diary, it is also seen that the appellant used to take the prosecutrix to the houses of his relatives/acquaintances namely Dinesh Yadav, Tulsidas Nag etc. and introduced her to them as his wife and established physical relations with her.
8. During video conferencing, the prosecutrix stated that when she visited the appellant in jail, he told her that only for the purpose of securing bail, a statement was made by his counsel on his behalf before this Court that he is ready to marry her whereas he does not want to marry her. Therefore, she has raised objection to release of the appellant on bail.
9. Thus, considering the facts and circumstances of the case, the fact that the appellant subjected the prosecutrix, a tribal girl, to forcible sexual intercourse on the pretext of marriage on number of times; during counseling at Sakhi One Stop Centre the appellant also agreed to marry her; a statement was also made on his behalf before this Court that he is ready to marry her and despite there being direction by this Court, though the prosecutrix filed an application before the trial Court for marrying the appellant but no such application was filed by him; the statement of the prosecutrix that when she visited the appellant in jail, he refused to marry her, and her objection to release of the appellant on bail; the overall conduct of the appellant during commission of the offence and subsequent thereto; the judgments relied upon by appellant's counsel being distinguishable on facts from the case of the present appellant, without commenting anything on merits of case, this Court is not inclined to release the appellant on bail. The order impugned of

the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the present appeal being without any substance is hereby dismissed.

Sd/-

(Gautam Chourdiya)

Judge

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