

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 383 of 2021

- Yogesh Yadav, S/o Shri Mahadev Yadav, Aged About 25 Years, R/o. Village Sambalpur, Thana and Tahsil - Bhanupratappur, District - North Bastar Kanker Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh, Through- The District Magistrate Kanker, District - North Bastar Kanker Chhattisgarh.

---- Respondent

For Appellant	: Mr. Sunil Sahu, Advocate
For Respondent/State	: Dr. (Ms.) Veena Nair, Dy.A.G.

Hon'ble Justice Shri Gautam Chourdiya

Judgment on Board

12.04.2021

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 15.03.2021 passed by the Special Judge (SC/ST Act), North Bastar Kanker (C.G.) in Crime No.57/2021 refusing his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 376 (2) (a) of IPC and Section 3 (2) (V) of the SC/ST Act, registered at Police Station- Bhanupratappur, District- North Bastar Kanker (C.G.). The appellant is in jail since 28.02.2021.
2. Prosecution case is that the appellant and the prosecutrix were used to talk with each other in the year 2015 during this time, the appellant expressed his love to her. The appellant for the first time visited prosecutrix's home in the year 2017 when

prosecutrix was all alone at her home, at that point of time, the appellant made forcibly physical relation with her and threatened her not to disclose the fact to anyone. Thereafter, the appellant on the pretext of marriage continuously made forcibly physical relations with her. When the prosecutrix asked him to marry, he refused to marry her and subsequently he stopped talking to her from January 2021.

3. Learned counsel for the appellant submits that the allegations against the appellant is false and fabricated. He further submits that the appellant/accused and the prosecutrix are in love affair since 2017 to 2020 and during this period the prosecutrix did not reveal to the fact to anyone. The prosecutrix is major, she is 22 years old, she has no objection to grant of bail to the appellant. The fact that the appellant has no criminal antecedents, there is no likelihood of the appellant tampering with the prosecution evidence or absconding and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.
4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that the appellant made forcibly sexual intercourse with the prosecutrix on the pretext of marriage. However, he has no criminal antecedents.
5. Prosecutrix has appeared through video conferencing mode from District Legal Services Authority, Kanker and raised no objection to grant of bail to the appellant.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the nature of allegation, detention period of the appellant, who is 25 years old, the fact that the prosecutrix is major girl, she is 22 years old, both appellant and prosecutrix are in love relation since 2018, the prosecutrix has appeared before this Court through V.C. and she raised no objection to grant of bail to the appellant, the fact that the appellant has no criminal antecedents, there is no likelihood

of the appellant tampering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, without commenting anything on 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.

7. It is directed that in the event of the 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 following conditions:-

(a) 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.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of appellant involving himself in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge