

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 505 of 2021

- Vijay Ambasth S/o Late Satyanarayan Ambasth, Aged 42 years, R/o Pathak Gali Bhattiroad Kedarpur, Ambikapur, District Surguja (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, through the District Magistrate Ambikapur, District Surguja (C.G.)

---- Respondent/State

For Appellant : Shri Sanjay Pathak, Advocate

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

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

20.07.2021

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 24.03.2021 passed by the Special Judge (Atrocities) Act, Surguja Ambikapur (C.G.) in Bail Application No. 237/2021, rejecting his regular bail. The appellant is in jail since 09.03.2021 in connection with Crime No. 05/2021 for the offence punishable under Sections 376 (2) (n), 294 & 506 of IPC and Sections 3(2) (v) & 3 (1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Ajak, Ambikapur, District Surguja (C.G.).
2. Prosecution story in brief is that the prosecutrix aged about 30 years and the appellant are well known to each other since the year 2010. On 27.02.2010 the appellant met the prosecutrix in her house and he made physical relations with the prosecutrix against her will. Thereafter, the appellant on promise of marriage continuously established forcible sexual relations with

the prosecutrix, but subsequently he refused to marry her. Therefore, the prosecutrix lodged the F.I.R. on 09.03.2021 against the appellant at Police Station Ajak Abmbikapur (C.G.)

3. As per State counsel, notice has been served upon the victim/prosecutrix, but neither the prosecutrix is present nor is there any representation on her behalf.
4. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. He also submits that both the appellant and the prosecutrix are major, both were having physical relations from the year 2010 to 16.02.2021. He further submits that the prosecutrix was a consenting party to the act of the appellant as she had physical relations with the appellant for about 10-11 years. He submits that the appellant has no criminal antecedents, he is in jail since 09.03.2021 and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
5. On the other hand, learned counsel for the State opposes the appeal and submits that on pretext of marriage, the appellant committed forcible sexual intercourse with the prosecutrix, therefore, the learned trial Court rightly rejected the bail application of the appellant.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that the prosecutrix and the appellant were having physical relations since the year 2010 and thereafter continuously both were having physical relations till 16.02.2021, the prosecutrix lodged the FIR after 10-11 years of the incident against the appellant, on 27.02.2010 first physical relation was allegedly made by the appellant with the prosecutrix, there is long delay for about 10-11 years in lodging the F.I.R. and no report was lodged or any complaint was made during this period, and that the appellant is in jail since 09.03.2021,

conclusion of the trial is likely to take some time, the appellant has no criminal antecedents as admitted by both the counsel, 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 and the impugned order is set aside.

8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- 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.
- 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.
- v. he shall strictly follow the Covid-19 protocol issued by the Central Govt./State Govt./Local Authority.

Sd/-
(Gautam Chourdiya)
Judge