

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 532 of 2021

1. Gajendra Choudhary S/o Ramlal Choudhary, Aged About 27 Years, R/o Village Tajpur, Police Station B.B. Nagar, District Bulandshahar (Uttar Pradesh).

----Appellant

Versus

1. The State Of Chhattisgarh, Through Station House Officer, Police Station Bemetara, District Bemetara (C.G.).

---- Respondent

For Appellant	:	Mr. Rajkumar Pali, Advocate.
For Respondent/State	:	Mr. Anand Verma, Dy. Govt. Advocate.
For Objector:	:	Mr. Shailesh Puriya, Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

12/07/2021

- 1) The matter is heard through Video Conferencing.
- 2) Heard on admission.
- 3) The application is admitted for hearing.
- 4) With the consent of the parties, the matter is heard finally.
- 5) 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 12/05/2021 passed by the Special Judge, SC/ST (Prevention of Atrocities) Act, Bemetara (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 27/03/2021 in connection with Crime No. 195/2021 for the offence punishable under Section 366, 376(2)(N), 370, 34 of Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

registered at Police Station Bemetara, District Bemetara (C.G.).

- 6) Case of prosecution, in brief, is that on 18/02/2021, co-accused Prakash Vishwakarma eloped with the prosecutrix, a member of scheduled caste, on the pretext of performing marriage with her. A missing report was lodged by the brother of the prosecutrix on 25/03/2020 and during inquiry, the prosecutrix was recovered from the possession of the present appellant from Bulandshahar (Uttar Pradesh). During investigation the prosecutrix disclosed that the co-accused alongwith his friend Raju Giri had taken her to Raipur on the pretext of marriage and from there co-accused Prakash Vishwakarma took her to Delhi where he made repeated physical relations with her. Later on the present appellant took the prosecutrix to Guawati District Bulandshahar (Uttar Pradesh) where co-accused Raju Giri informed the prosecutrix that the present appellant is going to marry her. Co-accused Raju Giri and Prakash Vishwakarma handed over the prosecutrix to the present appellant and after that the present appellant and the prosecutrix started living as husband and wife. After marriage the present appellant informed the prosecutrix that the co-accused Raju Giri and Prakash Vishwakarma obtained Rs. 1.5 Lakh from him for this marriage. The prosecutrix disclosed that since the co-accused Prakash Vishwakarma and Raju Giri had threatened her, when the appellant asked about her family and caste she informed him that her parents have died and she is of Yadav caste. According to the prosecutrix co-accused Prakash Vishwakarma had kept the mobile of the prosecutrix in his possession and therefore she informed the incident to her brother from the mobile of the present appellant.
- 7) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that the prosecutrix as well as the counsel for the Objector has no objection to release of the appellant on bail and application in this regard (I.A. No. 03/2021) has also been filed

alongwith affidavit. From the statement of prosecutrix under Section 164 of Cr.P.C. it is also clear that the appellant has not committed the offence alleged against him. He submits that the appellant is in jail since 27/03/2021, charge sheet has been filed and conclusion of the trial is likely to take some time due to COVID-19 Pandemic. He further submits that the appellant has no criminal antecedents and therefore, the appellant be released on bail.

- 8) On the other hand, learned counsel for the respondent/State opposes the bail application. He submits that the appellant has no criminal antecedents.
- 9) The prosecutrix present in person through Help Desk of this Court. Counsel for the prosecutrix as well as the prosecutrix raised no objection to release of the appellant on bail. The prosecutrix admits that the appellant has performed marriage with her at Arya Samaj Mandir, Greater Noida of their own free will.
- 10) Heard learned counsel for the parties.
- 11) Considering the facts and circumstances of the case, the nature of allegation against the appellant, no objection on behalf of the prosecutrix as well as her Counsel, the application I.A. No. 03/2021 filed on behalf of the prosecutrix raising no objection for grant of bail to the appellant which is supported by her affidavit, the statements of the prosecutrix under Section 161 and 164 of Cr.P.C., the prosecutrix is a major girl of 24 years, the appellant and the prosecutrix have performed marriage at Arya Samaj Mandir, Greater Noida (Annexure-A/2), detention period of the appellant who is 27 years old, charge sheet has been filed, the fact that appellant has no criminal antecedents and there is no apprehension of the appellant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial is likely to take some time due to COVID-19 Pandemic, 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**. 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,
- 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 strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- v. 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