

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 576 of 2021

- Manharan Rathore, S/o Ramcharan Rathore, Age 47 years, R/o Village – Mahka, Thana & Chowky – Kharsiya, District Raigarh (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, through Police Station – Kharsiya, District Raigarh (C.G.)

---- Respondent/State

For Appellant	:	Shri Sanjay Agrawal, Advocate
For Respondent/State	:	Shri K.K. Singh, Government Advocate
For Objector	:	Shri Dheerendra Pandey, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

22.07.2021

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 24.02.2021 passed by the Special Judge (Atrocities Act), Raigarh (C.G.) in Special Criminal Case under the Atrocities Act No. 291/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 11.02.2021 in connection with Crime No. 77/2021 for the offence punishable under Section 376 of IPC and Sections 3(1) (w) (1) & 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Kharsiya, District Raigarh (C.G.).
2. Prosecution story in brief is that the prosecutrix is a married lady aged 27 years. She resides with her husband and children. On 10.02.2021, the prosecutrix lodged the report stating that in the month of August 2018, the appellant frequently visited the shop which is situated in front of her house and he used to gamble (*satta*) in his mobile. During that time the appellant asked water from the prosecutrix for drinking purpose and she gave water

because they are living in same village. It is further alleged that one day, the appellant asked for her contact number and she gave her number, then both started talking in mobile with each other. It is also alleged that in the year 2019 the prosecutrix borrowed money of Rs.10,000/0- from the appellant, but she did not return the money. Thereafter, on 05.07.2019, the appellant committed forcible sexual intercourse with the prosecutrix and made her obscene video in his mobile. In the month of August 2020, they were quarelling with each other and the prosecutrix snatched the mobile from the appellant but the appellant called his son and abused her by using filthy language and took back the mobile from the prosecutrix. At that time husband of the prosecutrix reached there. Thereafter, the F.I.R. has been registered against the appellant on 10.02.2021.

3. 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 05.07.2019 to 25.02.2020. He further submits that the prosecutrix was a consenting party to the act of the appellant as she had physical relations with the appellant since long time and there is long delay for about one & half years in lodging the F.I.R. He submits that the appellant has no criminal antecedents, the appellant is in jail since 11.02.2021, charge-sheet has been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State as well as learned counsel for the objector oppose the appeal and submit that the appellant committed forcible sexual intercourse with the prosecutrix, therefore, the learned trial Court rightly rejected the bail application of the appellant.
5. I have heard learned counsel for the parties.
6. Considering the facts and circumstances of the case, the fact that the

prosecutrix and the appellant are major and both were having physical relations since the year 2019 and thereafter continuously both were having physical relations till 25.02.2020, the prosecutrix lodged the FIR on 10.02.2021 against the appellant, on 05.07.2019 first physical relation was allegedly made by the appellant with the prosecutrix, there is long delay for about one & half 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 11.02.2021, charge-sheet has already been filed, conclusion of the trial is likely to take some time, the appellant has no criminal antecedents as admitted by both the counsel, further considering that only one mobile has been seized by the police from the appellant and no obscene video of the prosecutrix or any photographs were seized from him, 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.

7. 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/- 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