

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 612 of 2021

- Balram Jain S/o Chhotelal Jain, aged about 30 years, R/o Village Durgkondal, Police Station Durgkondal, District North Bastar Kanker (C.G.)

---- Appellant

Versus

- The State of Chhattisgarh, Through: Station House Officer, Police Station Durgkondal, District North Bastar Kanker (C.G.)

---- Respondent/State

For Appellant : Shri Rajkumar Pali, Advocate

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

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

16.08.2021

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 28.05.2021 passed by the Special Judge (Atrocities) Act, North Bastar Kanker (C.G.) in Bail Application No. 82/2021, rejecting his regular bail. The appellant is in jail since 18.04.2021 in connection with Crime No. 07/2021 for the offence punishable under Sections 376 (2) (n) & 506 of IPC and Sections 3 (1) (w) & 3(2) (v-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Durgkondal, District North Bastar Kanker (C.G.).
2. As per prosecution story, on 12.01.2021, the prosecutrix lodged a report stating that from the year 2016 to 2021, the appellant had forcibly committed sexual intercourse with her on the pretext of marriage. Thereafter, the appellant refused to marry with the prosecutrix and he threatened to kill her. On the basis of said report, the offences under the aforementioned sections

as mentioned in para-1 of this judgment registered against the appellant.

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 the year 2016 to 2021. He further submits that the prosecutrix major lady having two children and was a consenting party to the act of the appellant as she had physical relations with the appellant for about four & half years. He submits that the appellant is in jail since 18.04.2021, charge-sheet has already 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 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.
5. Prosecutrix is present in person before Help Desk of this Court and she is identified/verified through her Aadhar Card. The prosecutrix stated that she has no objection to grant of bail to the appellant by this Court.
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 are major were having physical relations since the year 2016 and thereafter continuously both were having physical relations till the year 2021, the prosecutrix lodged the FIR after four years of the incident against the appellant, in the year 2016 first physical relation was allegedly made by the appellant with the prosecutrix, there is long delay for about four 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 18.04.2021, charge-sheet has already been filed, conclusion of the trial is likely to take some time, further that the prosecutrix is 40 years old, a

married woman, she is having two children aged about 14 years & 10 years, but her husband has died, she has no objection to grant of bail to the appellant by this Court, 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