

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 605 of 2021

- Ajit Gupta, S/o- Rajkumar Sao, Aged about 27 years, R/o- Khajuri, Police Chowki- Ganesh Mod, Police Station – Balrampur, District- Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station – AJAK Balrampur, District Balrampur-Ramanujganj(C.G.)

---- Respondent/State

For Appellant	:	Shri Sachin Nidhi, Advocate
For Respondent/State	:	Shri Adil Minhaz, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

23.08.2021

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 13.04.2021 passed by the Special Judge (SC/ST Act), Balrampur at Ramanujganj (C.G.) in Special Sessions (Atrocities) Case No. 18/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 01.04.2021 in connection with Crime No. 08/2021 for the offence punishable under Sections 376 (2) (n), 312 & 417 of IPC and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Ajak Balrampur, District Balrampur-Ramanujganj(C.G.).
2. Prosecution story in brief is that on 09.03.2021 the prosecutrix lodged a written complaint before the concerned Police Station alleging that she was working as a teacher in the Primary School of Balrampur in the years 2017 and was preparing for A.D.E.O. examination. The present appellant resided in neighborhood house. During this period, the appellant calling the prosecutrix in the name of studies and on the pretext of marriage,

he made physical relations with the prosecutrix against her will. On this act of the appellant, the prosecutrix became pregnant, but, the appellant aborted her by feeding her with an abortion pill. When the prosecutrix again became pregnant, the appellant refused to marry her. Hence on report being lodged to the above effect, the aforesaid offence has been registered against 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. He further submits that the appellant and the prosecutrix were having physical relations from the year 2017, but neither the F.I.R. was lodged by the prosecutrix, nor any complaint made to any person regarding offence committed by the appellant prior to lodging of the present F.I.R. He also submits that the appellant is languishing in jail since 01.04.2021 who is 27 years old, 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. He further submits that the appellant is ready to perform marry with the prosecutrix.
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 connected through video conferencing from District Legal Services Authority, Balrampur, Ramanujganj and she was identified by an employee of DLSA, Balrampur. The prosecutrix stated that she has no objection to grant of bail to the appellant by this Court. She also stated that she is ready to perform marry with 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 2017 and thereafter continuously both were having physical relations prior to lodging of the F.I.R., when previously the prosecutrix became pregnant, she got aborted by the appellant and again she became pregnant, then the appellant refused to marry her, therefore, the prosecutrix lodged the FIR 09.03.2021 against the appellant, there is long delay 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 01.04.2021, charge-sheet has already been filed, conclusion of the trial is likely to take some time, further considering the statement of the prosecutrix and now both are ready to perform marry with each other, 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