

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**(Proceedings through Video Conferencing)****Criminal Appeal No. 639 of 2021**

- Amarnath Verma S/o Panchram Verma, aged about 27 years, R/o Village Chandkhuri Basti, Mandir Hasaud, Police Station Mandir Hasaud, District Raipur (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, Through Station House Officer, Police Station Mandir Hasaud, District Raipur (C.G.)

----State/Respondent

For Appellant : Shri Ashok Soni, Advocate

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

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****04.08.2021**

1. This appeal by the accused/appellant under Section 14A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 03.02.2021 passed by the Special Judge (Atrocities) Raipur, District Raipur (C.G.) in Special Criminal Case No. 17/2020, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 13.08.2020 in connection with Crime No. 275/2020 for the offence punishable under Sections 376, 376 (2) (k) (n), 323, 506-II & 294 of IPC and Sections 3 (2) (v), 3 (1) (r), 3 (1) (s) & 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Mandir Hasaud, District Raipur (C.G.).
2. Prosecution case is that the present appellant was having an affair with the prosecutrix between the period from 05.06.2020 to 11.08.2020 and he committed rape on the prosecutrix against her wishes and she was assaulted also and finally, the prosecutrix escaped and then lodge a report in the police station.
3. Learned counsel for the appellant submits that the present is a case of clear consent between the appellant and the prosecutrix, because the prosecutrix herself has stated that she and the appellant had longstanding affair since last four years and thereafter, from the period 05.06.2020 to 11.08.2020, about three months, she stayed in living relationship with the appellant and

therefore, looking to the fact that the prosecutrix is major, the present is a case of consensus sexual intercourse and because of certain dispute, FIR is being lodged. He further submits that the injuries received by the prosecutrix are simple in nature, which indicate that this is not a case of sexual assault. He also submits that the appellant is in jail since 13.08.2020, charge-sheet has been filed and due to Covid-19, conclusion of the trial is likely to take some time, therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail.
5. Prosecutrix is present in person before Help Desk of this Court and she stated that she has objection to grant of bail to the appellant by this Court.
6. Considering the facts and circumstances of the case, considering the facts that the first bail application filed under Section 439 Cr.P.C. of the present appellant has been rejected on merits by the coordinate bench of this Court vide order dated 14.10.2020 passed in M.Cr.C. No. 6175 of 2020, charges have been framed against the appellant, trial is in progress in this case and in near future case is likely to be disposed of by the trial Court, the evidence so far recorded before the trial Court cannot be appreciated at this stage by this Court, therefore, this Court is not inclined to release the appellant on bail. The order impugned of the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the present appeal being without any substance is hereby dismissed.

Sd/-

(Gautam Chourdiya)
Judge