

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**(Proceedings through Video Conferencing)****Criminal Appeal No. 714 of 2021**

- Dr. Abu Kashim Khan son of Mahboob Khan, aged about 35 years, resident of Dubchhola, School Para, Police Station- Khadgawan, District Korea (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh Through : Station House Officer, Police Station, Adim Jati Kalyan (AJK), Baikunthpur, District - Korea (C.G.)

----State/Respondent

For Appellant : Shri Goutam Khetrapal, Advocate

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

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****11.08.2021**

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 25.06.2021 passed by the Special Judge SC/ST(PA) Act, Korea, Baikunthpur (C.G.) in Special Criminal Case No. 12/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 19.05.2021 in connection with Crime No. 14/2021 for the offence punishable under Sections 342, 376 & 506 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Adim Jati Kalyan (AJK), Baikunthpur, District Korea (C.G.).
2. As per prosecution story, on 17.05.2021, the prosecutrix had gone to the Clinic of appellant for treatment, where the appellant given injection to her and thereafter, he took the prosecutrix in a room of his clinic, closed the door of room from inside and he committed forcible sexual intercourse with her. The prosecutrix lodged report at Police Station Adim Jati Kalyan Thana, Baikunthpur on 19.05.2021. On the basis of above report, offences under Sections 342, 376 & 505 of IPC and Section 3 (2) (v) of the Scheduled

Tribes (Prevention of Atrocities) Act, 1989 have been registered against the appellant.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in this crime, there were no injuries found on the body of the prosecutrix regarding she was subjected to sexual intercourse. He submits that the appellant is in jail since 19.05.2021, charge-sheet has already 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 connected through video conferencing from District Legal Services Authority, Korea and 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 nature of allegation made against the present appellant that he committed forcible sexual intercourse against the prosecutrix in his clinic, that 161 & 164 statements of the prosecutrix who is a tribal girl was subjected to forcible sexual intercourse, there is no previous enmity between both of them as has not been shown in the records, it is stated by learned counsel for the appellant that there were no injuries found on the body of the prosecutrix during sexual intercourse, but it is not a matter to argue on merit in rape case, without commenting anything on merits of the case, 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