

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 751 of 2021

- Nitin Yadav, aged about 20 years, S/o Haresh Yadav, R/o Near Ranchandi Mandir, Ward No. 11, Dongargarh, District Rajnandgaon (C.G.)

---- Appellant

Versus

- The State of Chhattisgarh, Through Police Station Dongargarh, District Rajanandgaon (C.G.)

---- Respondent/State

For Appellant : Shri Parag Kotecha, Advocate

For Respondent/State : Shri Adil Minhaz, 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) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 05.07.2021 passed by the Special Judge (Atrocities), District Rajnandgaon (C.G.) in Special Sessions Case No. 14/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 10.03.2021 in connection with Crime No. 141/2021 for the offence punishable under Sections 376 & 376 (2) of IPC and Section 3 (2) (v-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Dongargarh, District Rajnandgaon (C.G.).
2. Allegation against the present appellant is that the appellant committed sexual intercourse with the prosecutrix on the pretext of marriage, who belongs to reserve category. Hence, offence under the aforesaid 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, aged about 20 years, and the prosecutrix, aged 20 years, are major and both were having physical relations. 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 last one year and she lodged the F.I.R. on 09.03.2021. He also submits that the appellant is in jail since 10.03.2021, 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 opposes the appeal and submit that the learned trial Court rightly rejected the bail application of the appellant.
5. Prosecutrix is connected through video conferencing from District Legal Services Committee, Rajnandgaon (C.G.) and stated that she has objection to grant of bail to the appellant by this Court and she is not ready to 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 are major, both are acquainted with each other near about five years and both were having physical relations since last one year, the prosecutrix lodged the FIR on 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, further that the appellant is ready to marry with the prosecutrix but she denied to marry with him, she has objection to grant of bail to the appellant by this Court, and that the appellant is in jail since 10.03.2021, charge-sheet has already been filed, conclusion of the trial is likely to take some time, 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