

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 768 of 2021

1. Kaushlendra Kumar Rajwade S/o Ramkeshwar Rajwade, Aged About 22 Years, R/o Village Tilsawa, P.S. Surajpur, District Surajpur (C.G).

----Appellant

Versus

1. State Of Chhattisgarh, Through Police Station A.J.K. District Surajpur (C.G.).

---- Non-Appellant

For Appellant	:	Mr. Anshul Tiwari, Advocate.
For Non-Appellant/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment On Board

08/09/2021

- 1) This appeal by the accused/appellant under Section **14A** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 15/07/2021 passed by the Special Judge (Atrocity), Surajpur, District Surajpur (C.G.), rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 16/06/2021 in connection with Crime No. 11/2021 for the offence punishable under Sections 450 & 376 of Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station AJK, District Surajpur (C.G.).
- 2) Allegation against the present appellant is that on 27/02/2021 he committed forcible sexual intercourse with the prosecutrix and at that time husband of the prosecutrix had gone to his Grocery shop. On report being lodged to the above effect, the aforesaid offence has been registered against the applicant.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that the appellant is in jail since 16/06/2021 and conclusion of the trial is likely to take some time due to COVID-19 Pandemic. Therefore, the appellant be released on bail.
- 4) On the other hand, learned counsel for the State opposes the bail application.
- 5) Prosecutrix is present through video conferencing with the aid of District Legal Services Authority, Surajpur with her Counsel who identified her. The prosecutrix vehemently objected to grant of bail to the appellant.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the age of the prosecutrix i.e. 21 years, she is a major, the appellant and the prosecutrix were known to each other as they were neighbour, statement of the husband of the prosecutrix that when he returned from shop he saw that both were in compromising position, inordinate delay in lodging FIR, detention period of the appellant who is 22 years old, the fact that there is no apprehension of the appellant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial is likely to take some time due to COVID-19 Pandemic, without commenting anything on 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**. 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/- each 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 strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- v. he shall not involve himself in any offence of similar nature in future,

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of appellant involving himself in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant