

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 852 of 2021

- Pramod Dubey, S/o Shri Krishna Kumar Dubey, Aged about 38 years, R/o Purani Basti, Raipur, Presently Residing at Sector- 29, Naya Raipur, Thana Rakhi, District Raipur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through Officer-In-Charge, Police Station-Fingeshwar, District- Gariaband (C.G.)

---- Respondent/State

For Appellant : Shri Anand Shukla, Advocate

For Respondent/State : Shri Adil Minhaz, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

01.09.2021

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 16.07.2021 passed by the Additional Sessions Judge, Fast Track Special Court (POCSO & Rape Matters), Gariaband, District Gariaband (C.G.) in Bail Application No. 94/2021, rejecting his regular bail. The appellant is in jail since 08.07.2021 in connection with Crime No. 131/2021 for the offence punishable under Sections 376, 506 (B) & 506 of IPC and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Fingeshwar, District Gariaband (C.G.).
2. Prosecution story in brief is that the appellant and the prosecutrix were neighbors and were well known to each other since the year 2016. Both started conversation and later on the appellant used to visit and meet the prosecutrix. The appellant knowing that the prosecutrix has left her husband,

he made physical relations with the prosecutrix. It is alleged that on 18.05.2021, the appellant visited the prosecutrix's house at Patora, made physical relations with her and took obscene images of her, threatened her that he will viral her obscene images in social networking sites and also threatened to kill her. Later, on 24.06.2021 in the evening the prosecutrix got her obscene images of her own whatsapp from the applicant from his whatsapp number. Therefore, the prosecutrix aggrieved to actions of the appellant lodged F.I.R. on 05.07.2021 against the appellant which was registered under the aforesaid Sections of IPC and Section of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. He also submits that both appellant and the prosecutrix are major, both were having physical relations from the year 2016 to 18.05.2021 and she lodged the F.I.R. on 05.07.2021, there is delay in lodging the F.I.R. by the prosecutrix. He submits that the prosecutrix is a major lady aged about 33 years and she is already married woman having two children and she working as nurse in the hospital. He further submits that the prosecutrix was a consenting party to the act of the appellant as she had physical relations with the appellant for about 05 years. He submits that the appellant has no criminal antecedents, he is in jail since 08.07.2021 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 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 present in person before Help Desk of this Court and she is identified/verified by an employee of this Court, through her Aadhar Card.

The prosecutrix stated that she left her husband through social meeting of her society and having two children aged about 14 & 10 years. She has objection to grant of bail to the applicant by this Court.

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 2016 and thereafter continuously both were having physical relations till 18.05.2021, the prosecutrix lodged the FIR after 05 years of the incident against the appellant, in the year 2016 first physical relation was allegedly made by the appellant with the prosecutrix, there is long delay for about 05 years in lodging the F.I.R., no report was lodged or any complaint was made during this period, the prosecutrix is already married woman having two children aged about 14 & 10 years, she left her husband through social meeting of her society, and that the appellant is in jail since 08.07.2021, conclusion of the trial is likely to take some time, the appellant has no criminal antecedents as admitted by both the counsel, 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

vatti