

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 859 of 2021

- Rahul Maiti, son of Lakhikant Maiti, aged about 25 years, resident of Kuldiha tha, Debra District Medaniipur West Bengal, at present, resident of House of Laldas Gayakwad, Dawda Colony, New Laxmi Nagar, near Sharda Mandir, P.S. Tikrapara, Raipur, District Raipur (C.G.)

---- Appellant

Versus

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

---- Respondent/State

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

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

07.09.2021

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 14.07.2021 passed by the Special Judge, (Atrocities Act), Raipur, District Raipur (C.G.) in Special Criminal Case No. 20/2021, rejecting his regular bail. The appellant is in jail since 30.04.2021 in connection with Crime No. 114/2021 for the offence punishable under Section 376 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Tikrapara, District Raipur (C.G.).
2. Prosecution story in brief is that the prosecutrix and the appellant were working in the same hospital, they were well known to each other and both were having love affair. On the date of incident, the appellant gave soft-drink to the prosecutrix at his house, after drinking the said drink the prosecutrix felt uneasy and she slept. Thereafter, she woke up and saw that the

appellant was trying to make physical relations with her saying that he would marry her and also pressurized her to divorce her husband. When she refused to the act of the appellant, then the appellant abused her in name of her caste. However, the prosecutrix lodged F.I.R. on 29.04.2021 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 submits that both appellant and the prosecutrix are major, both were having physical relations for about four months and she lodged the F.I.R. on 29.04.2021, there is delay in lodging the F.I.R. by the prosecutrix. He submits that the prosecutrix is a major lady aged about 31 years and she is already married with one Uma Shankar Pathak and having one child. 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 04 months. He submits that the appellant is in jail since 30.04.2021 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 alongwith her counsel Mr. Arvind Bhatnager before this Court and she is identified by her counsel, through her Aadhar Card. The prosecutrix stated that she was married to one Uma Shankar Pathak in the year 2013 and is having one child aged 06 years through this wed-lock, she has not taken divorce from her husband through social meeting or by court. She has no objection to grant of bail to the appellant by

this Court.

6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, considering the statement of the prosecutrix, she is married woman, her marriage was solemnized in the year 2013 with Uma Shankar Pathak and she was continuously living with husband for about seven years, she has not taken divorce from her husband through social meeting or officially by court, the prosecutrix after having relations with the appellant for about six months, lodged the F.I.R. on 29.04.2021, she is present before this Court and she has no objection to grant of bail to the appellant by this Court, that the appellant is in jail since 30.04.2021, due to Covid-19 pandemic, 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/- 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 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.

9. 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 nature of offence.

Sd/-

(Gautam Chourdiya)
Judge

vatti