

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 765 of 2020**

1. Deepak Kumar Heda S/o Rameshwar Heda Aged About 33 Years R/o Ward No.- 04, Purani Basti Kunkuri, P.S.- Kunkuri, District- Jashpur (C.G.).

**----Appellant**

**Versus**

1. State Of Chhattisgarh Through Police Station- P.S. Kunkuri, District- Jashpur (C.G.).

**---- Respondent**

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|----------------------|---|---------------------------------------|
| For Appellant        | : | Shri Akath Kumar Yadav, Advocate.     |
| For Respondent/State | : | Shri Rakesh Sahu, Dy. Govt. Advocate. |

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**Hon'ble Justice Shri Gautam Chourdiya**  
**Judgment On Board**

**04/01/2021**

- 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 04/09/2020 passed by the Special Judge "Atrocities", Jashpur (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 18/08/2020 in connection with Crime No. 65/2020 for the offence punishable under Section 376(D), 342 of Indian Penal Code and under Sections 3(2)(5) and 3(2)(vA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Kunkuri, District Jashpur (C.G.).
- 2) Case of the prosecution in brief is that the prosecutrix and the present appellant as well as co-accused Dinesh Jain were acquainted to each other. On 17/08/2020 at about 02:00 PM co-accused Dinesh Jain took the prosecutrix to Tangarpani where the present appellant locked the co-accused Dinesh Jain and the

prosecutrix in a room and thereafter co-accused Dinesh Jain committed rape with the prosecutrix. Thereafter, the present appellant also committed rape with the prosecutrix. At that time the villagers came there and thereafter co-accused Dinesh Jain opened the door and the villagers took out the prosecutrix and the present appellant from the room.

- 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 in fact prosecutrix and the co-accused were having affair for the last 1 year. As per medical report of the prosecutrix, no injury, internal or external, was found on her body. According to the prosecution case itself the prosecutrix did not raise any hue and cry at the time of alleged incident and the door of the room where the prosecutrix and the present appellant were having physical relation was forced to be opened by the villagers. The appellant is in jail since 18/08/2020, he has no criminal antecedents and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
- 4) Learned counsel for the State also opposing the submission made by the appellant's counsel submits that the trial Court has rightly rejected the bail application of the appellant and there is no illegality or infirmity in the same warranting interference by this Court.
- 5) Heard learned counsel for the parties & perused the case dairy.
- 6) Prosecutrix is present alongwith her brother Deepanjan Xalxo and they have no objection to grant of bail to the appellant.
- 7) Considering the facts and circumstances of the case, the fact that the co-accused Dinesh Jain and the prosecutrix were having physical relations since October, 2019 to 17<sup>th</sup> August, 2020, the MLC of the prosecutrix wherein no injury was found on her person, the fact that the door of the room was opened on hue and cry being raised by the villagers, statements of villagers

Hemant Minj, Akshit Minj and Pankaj Minj, who state that after ousting the appellant from the room when they asked the prosecutrix to remove the scarf (*Dupatta*) from her face she refused and the same was thereafter forcibly removed, that the prosecutrix was major, charge sheet has already been filed, the detention period of the appellant and that conclusion of trial is likely to take some time, 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. 50,000/-** with two sureties of Rs. 25,000/- 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, and
- 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.

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