

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 774 of 2020

- Johan Kaiwart S/o Shri Ramayan Kaiwart, aged about 19 years, R/o Nand Mahal Chauk, Ward No. 10, Malhar, Police Chauki-Malhar, Police Station Masturi, Civil & Revenue District Bilaspur (CG)

---- Appellant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police Station Masturi, Civil & Revenue District Bilaspur (C.G.)

---- State/Respondent

For Appellant	:	Shri Paras Mani Shriwas, Advocate
For Respondent/State	:	Shri Vimlesh Bajpai, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

06.01.2021

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 19.09.2019 passed by the Special Judge, SC/ST (PA) Act 1989, District Bilaspur (C.G.) in S.T. No. 18/2019, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 12.06.2019 in connection with Crime No. 205/2019 for the offence punishable under Sections 363, 366-A, 376 read with Section 34 of IPC; Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 4 of the Protection of Children from Sexual Offences Act, registered at Police Station- Masturi (C.G.).
2. Allegation against the accused/appellant is that on 22.05.2019 the appellant has abducted the prosecutrix, aged about 15 years, with the help of other co-accused persons namely Amit Kaiwart & Dakeshwar Kenwat and took the prosecutrix to Allahabad where they started working in brick-kiln. Further allegation against the appellant is that the appellant committed sexual intercourse with the prosecutrix against her will in Allahabad.

3. Grand-father of the prosecutrix namely Prahalad Patale appeared before this Court in person and he has objection to grant of bail to the appellant by this Court.
4. Learned counsel for the appellant submits that the appellant is an innocent person, he has been falsely implicated in this case, the prosecutrix was major and she had gone with the appellant on her will. He also submits that the appellant is in jail since 12.06.2019 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
5. On the other hand, learned counsel for the State opposes the bail.
6. Considering the facts and circumstances of the case, the prosecutrix is aged about 15 years at the time of incident and was abducted by the appellant with the help of other co-accused, she was taken to Allahabad where the appellant committed sexual intercourse with her, that she was found in possession of the appellant and that number of witnesses have already been examined so far, without commenting anything on merits of the case, this Court is not inclined to release the appellant on bail. The order impugned of the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the present appeal being without any substance is hereby dismissed.

Sd/-
(Gautam Chourdiya)
Judge