

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 886 of 2021

1. Ram Patel S/o Patiram Patel, Aged About 24 Years, R/o Shanti Mohalla Barampur, Out Post Sarwamangala, Korba, District Korba (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station Kusmunda, District Korba (C.G.).

---- Respondent

For Appellant : Mr Mirza Kaisher Beg, Advocate.
For Respondent/State : Mr. Anand Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment On Board

13/09/2021

- 1) This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 07/07/2021 passed by the Special Judge (SC & ST Act), Korba, District Korba (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 15/03/2021 in connection with Crime No. 81/2021 for the offence punishable under Section 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 Kusmunda, District Korba (C.G.).
- 2) As per the prosecution case, the prosecutrix lodged a written report on 11/03/2021 at Police Station to the effect that on the pretext of marriage the appellant committed forcible sexual intercourse with her from 22/12/2019 to June 2020 on number of times as a result of which she delivered a girl child. However, subsequently the appellant refused to marry her and also denied paternity of the child delivered by the prosecutrix.

- 3) Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. The prosecutrix is a major girl aged about 24 years and she was a consenting party. No forcible sexual intercourse committed by the appellant with the prosecutrix. He submits that the appellant is in jail since 15/03/2021, charge sheet has been filed, there is no apprehension of the appellant tampering with the evidence or absconding and conclusion of the trial is likely to take some time due to COVID-19 Pandemic. 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) Despite service of notice upon the prosecutrix, neither she is present in person nor is there any representation on her behalf.
- 6) Heard learned counsel for the parties & perused the case dairy.
- 7) Considering the facts and circumstances of the case, the nature of the allegation against the appellant that he had sexual intercourse with the prosecutrix from 22/12/2019 to June 2020 on the pretext of marriage as a result of which she delivered a child but subsequently he refused to marry her as also the paternity of the child, in particular the statement of the prosecutrix under Section 161 & 164 of Cr.P.C., other material available in case dairy, without commenting anything on merits of the case, this Court finds no illegality or perversity in the order impugned of the trial Court rejecting the bail application of the appellant.
- 8) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly **dismissed**.

-Sd/-
(Gautam Chourdiya)
Judge