

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 882 of 2021

- Nageshwar Das Bairagi S/o Shri Gourishankar Bairagi, aged about 35 years, Caste Vaishnav R/o Indranagar Raigarh, Police Station City Kotwali Raigarh, District Raigarh (C.G.).

----Appellant

Versus

- State of Chhattisgarh Through: the Station House Officer, Police Station Kunkuri, District Jashpur (C.G.)

---- Respondent

For Appellant	Mr. Sanjeev Verma, Advocate.
For State	Mr. Anand Verma, Deputy G.A.
For Objector	Mr. Harish Khunte, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

08/09/2021

Heard.

1. This appeal by the accused/appellant under Section 14-A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 12/08/2021 passed by the Additional Sessions Judge and Special Judge (Atrocities) Jashpur, District Jashpur C.G., rejecting the bail application of the appellant under Section 439 Cr.P.C who is in jail since 23/07/2021 in connection with Crime No. 86/2021 for the offence punishable under Sections 294, 323, 506 and 376 of Indian Penal Code and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act registered at

Police Station Kunkuri, District Jashpur (C.G.)

2. Case of the prosecution, in brief, is that on 20/07/2021 the Prosecutrix has lodged a FIR alleging therein that in the year 2012 she got familiar with the appellant through mobile phone. Thereafter, on 22/03/2013, the appellant brought the prosecutrix in a rented house, threatened her of dire consequences and committed forcible sexual intercourse with her. On the basis of FIR, offence has been registered against the appellant.
3. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He further submits that the appellant is in jail since 23/07/2021, there is no criminal antecedent registered against the appellant and trial is likely to take some time for its disposal, therefore, he may be released on bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. The prosecutrix is present before this Court along with his counsel Mr. Harish Khunte. She has objection in grant of bail to the appellant.
6. I have heard learned counsel for the parties.
7. Looking to the age of the prosecutrix who is 43 years old married lady having one child and further looking to the fact that she was in continuous physical relationship with the appellant since 2013,

there is delay in lodging the FIR which was lodged on 20/07/2021 and there is no criminal antecedent registered against the appellant, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for granting bail to the appellant. Accordingly, the application is allowed.

8. It is directed that in the event of the Appellant's executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- 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 strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
- v. he shall not involve himself in any offence of similar nature in future.

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's involving himself in any offence in future.

Sd/-
(Gautam Chourdiya)
JUDGE