

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**CRA No. 899 of 2021**

- Gulab Yadav S/o Shri Heeralal Yadav aged about 37 Years R/o Ward No. 15, Goutiyapara, Chanwaridand, Police Station Manendragarh, District Koriya Chhattisgarh.

-----Appellant**VERSUS**

- State of Chhattisgarh through: SHO, Police Station AJAK, Baikunthpur District Koriya, Chhattisgarh

-----Respondent

For Appellant	: Mr. Anil Gulati, Advocate
For Respondent	: Mr. Adil Minhaj, Govt. Adv.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****07/10/2021**

1. This appeal under Section 14(A)(2) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities Act) 1989 arises out of rejection of application for anticipatory bail *vide* impugned order dated 05.07.2021 filed under Section 438 of CrPC in connection with crime bearing no. 09/2021, registered at Police Station- AJAK Baikunthpur, District Koriya, Chhattisgarh, for offence defined under Sections 376(2)(n), 323 r/w Section 34, 312, 313 of IPC, Section 4, 5 of C.G. Tonhi Pratadana Adhiniyam and Section 3(2)(v)(a) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities Act) 1989.
2. Case of prosecution is, that appellant in the month of April 2016 has committed sexual intercourse with prosecutrix on the pretext of marriage. Appellant thereafter resided with her in his house and continuously established physical relationship with her due to which

complainant/ prosecutrix became pregnant. Appellant got her pregnancy aborted. When prosecutrix asked him to marry her, upon which, for one or the other excuses he avoided. Appellant is now in contact and relationship with some other woman and prosecutrix is being mentally and physically harassed alleging that she is in the activities of playing witchcraft. Incident was reported to concerned police station, based on which, aforementioned crime was registered against appellant.

3. Mr. Anil Gulati, learned counsel for appellant would submit that the allegation of starting of making physical relationship with complainant/ prosecutrix is of April 2016. As per allegation appellant and prosecutrix were in continuous relationship for more than 3 years. On the date of alleged incident, prosecutrix was a major girl aged 23 years and now she is aged 28 years. Appellant has not committed any offence as alleged against him and he is in jail since 26.03.2021. Trial may take some time, hence, he may be enlarged on regular bail.
4. On the other hand, Mr. Adil Minhaj, learned State counsel opposing the submissions made by learned counsel for appellant would submit that the appellant on the pretext of marriage sexually exploited the prosecutrix for last about 5 years, now appellant has left her and as per allegation he is in relationship with some other woman, hence, appellant is not entitled for grant of regular bail.
5. I have heard learned counsel for respective parties.
6. It is not disputed by learned counsel for State that even on the first date of incident prosecutrix was major girl aged 23 years and now she is aged 28 years. She indulged in making physical relationship

with appellant and was in relationship for about more than 3 years as submitted by learned counsel for appellant. Appellant is in jail since 26.03.2021.

7. Taking into consideration, the nature of allegations, facts and circumstances of the case, period of pre-trial detention, without commenting anything on merits of the case, I am inclined to allow this appeal for grant of regular bail and the impugned order passed by learned Court below is not sustainable, it is hereby set aside.
8. Accordingly, appeal is allowed and it is directed that in the event of arrest of appellant in connection with the crime in question (09/2021), appellant shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Appellant shall also abide by the following conditions:
 - (i) that the appellant shall make himself available for interrogation before the Investigation Officer as and when required;
 - (ii) that the appellant 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/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the appellant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the appellant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
 Judge