

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 902 of 2021

Avinash Baishnav S/o R.D. Baishnav, Aged About 31 Years, Occupation -Constable, Posted At Police Station -Basantpur, District - Balrampur – Ramanujganj, (C.G.). Permanent R/o Village -Basdei, Police Station -Basdei (Wrongly Mentioned As Gasdei), District -Surajpur, Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh, Through The Station House Officer, Police Station AJAK, Balrampur, District - Balrampur - Ramanujganj Chhattisgarh. (In The Cause Title Wrongly Mentioned As Police Chowki Wadraf Nagar, Police Station Basantpur) Chhattisgarh.

--- Respondent

For Applicant	:	Mr. Jitendra Shrivastava, Advocate.
For Respondent-State	:	Mr. B.P. Banjare, Dy. GA.
For Complainant	:	Mr. Animesh Verma, Advocate alongwith complainant.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

03/09/2021

Heard.

1. This criminal appeal filed under Section 14-A of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'Act of 1989') against order dated 06.08.2021 passed by learned Special Judge (SC/ST Act) Balrampur -Ramanujganj, (CG) where appellants' application filed under Section 438 of Cr.P.C has been dismissed.
2. Appellant is apprehending his arrest in connection with Crime No.14/2021 registered at Police Station –AJAK Balrampur, District Balrampur-Ramanujganj, (CG), for the offence punishable under Sections 376(2)(n) & 506 of the Indian Penal Code and Section 3(2)(v), 3(1)(r-s) of the Act of 1989.
3. Case of the prosecution, in brief, is that complainant lodged a written report mentioning therein that in the month of March 2020, she was being deputed as Nodal Officer at CHC Wadraf Nagar. Appellant is deputed

there as security of medical staff. Appellant entered into rented residential accommodation of complainant and committed forcible sexual intercourse with her. When complainant conceived pregnancy, he pressurized her for getting pregnancy aborted. On 01.03.2021, appellant abused complainant in filthy language and also by her caste. Based on written complaint, instant crime is registered against appellant.

4. Learned counsel for the appellant submits that appellant and complainant were having love affair, they made physical relation with their own will. The allegation levelled against applicant is absolutely false. When complainant conceived pregnancy and appellant took time for marriage, complainant only to pressurize him for performing marriage lodged report against applicant. After registration of FIR and during the pendency of this appeal, they got married on 30.07.2021. Appellant is a Government servant. Looking to the facts and circumstances of this case, appellant may be enlarged on anticipatory.
5. Learned State Counsel opposes the submissions made by learned counsel for appellant and submits that in FIR allegation of abusing complainant by her caste is mentioned. Hence, in view of bar under Section 18 of the Act of 1989 anticipatory bail application is not maintainable.
6. Complainant is present in person, through virtual hearing from help-desk of Bar Association of High Court along-with her counsel and submits that she is working as doctor and posted at CHC, Wadrafnagar. As appellant was not performing marriage with her, therefore, in frustration she has lodged complaint against him. Now, she got married with appellant.
7. Heard learned counsel for the parties.

8. Considering the entire facts and circumstances of the case, nature of allegation, submissions of learned counsel for the parties as well as complainant herself before this Court, both complainant and appellant are government servant, I am of the view that bail application of appellant filed under Section 438 of Cr.P.C can be considered. For the foregoing reasons, impugned order passed by Court below is set aside. I am inclined to grant anticipatory bail to appellant.
9. Accordingly, appeal is allowed and it is directed that in the event of arrest of appellant in connection with crime in question, he shall be released on bail by the Officer Arresting him on his executing a personal bond in 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 appellant shall make himself for interrogation before the investigating officer as and when required;
 - (ii) that 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 appellant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that 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

Jamal/-