

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 730 of 2020

- Gopeshwar Sahu @ Gappu S/o Uderam Sahu, Aged about 30 years, R/o Bhotipara Dhamtari, District Dhamtari (CG)

---- Appellant

Versus

- State of Chhattisgarh, Through P.S. Parpa/AJAK Jagdalpur, District Bastar (C.G.)

---- State/Respondent

For Appellant : Shri Vikas A Shrivastava, Advocate

For Respondent/State : Shri Vimlesh Bajpai, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

05.01.2021

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 13.07.2020 passed by the Special Judge (SC/ST Act), Jagdalpur, District Bastar (C.G.) in Special Sessions Case No. 02/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 12.01.2020 in connection with Crime No. 234/2019 for the offence punishable under Sections 376 of IPC and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Parpa,AJAK, Jagdalpur (C.G.).
2. Allegation against the accused/appellant is that on pretext of marriage, the appellant committed sexual intercourse with the prosecutrix against her will since 2018.
3. 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 was having affair with the appellant. He submits that neither any false promise of marriage was made by appellant to the prosecutrix, nor he committed rape with her. He also submits that the appellant is in jail since 12.01.2020 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State opposes the bail. He submits that the appellant is a married person and having one child from wed-lock. He further submits that the appellant has sexually exploited the

prosecutrix who belongs to scheduled tribe community. He also submits that on 08.12.2020 the prosecutrix was connected through video conferencing from District Court Jagdalpur and she objected and stated that the appellant was concealing the fact that he was already married and on the false pretext of marriage he physically exploited her for about one year i.e. from 2018 to 2019.

5. Considering the facts and circumstances of the case, that the appellant is a married person and he physically exploited the prosecutrix who belongs to scheduled tribe community on the promise of marriage, 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