

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 782 of 2020

1. Ashutosh Singh S/o Shri Onkarnath Singh, Aged About 18 Years, R/o Gali No. 13, Ekta Colony, Mana Camp, Tahsil and District Raipur (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh Through The District Magistrate, Raipur, District Raipur (C.G.).

---- Respondent

For Appellant : Shri Rajesh Tiwari, Advocate.
For Respondent/State : Shri Dinesh R.K. Tiwari, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

11/01/2021

- 1) This appeal by the accused/appellant under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 21/08/2020 passed by the Special Judge "Atrocities", Raipur (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 03/07/2020 in connection with Crime No. 110/2020 for the offence punishable under Section 376 of Indian Penal Code, under Section 4 & 6 of POCSO Act and under Section 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Mujgahan Raipur, District Raipur (C.G.).
- 2) Case of the prosecution, in brief is that on 26/06/2020 in the night he committed rape with the minor prosecutrix belonging to scheduled tribe community. On report being lodged to the above effect by mother of the prosecutrix, offence under the aforesaid

section 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 submits that as per statement of the prosecutrix under Section 164 of Cr.P.C., she states that no forcible sexual intercourse committed by the appellant with her. He further submits that Co-ordinate Bench of this Court in similar matters has granted bail to the accused vide ***order dated 28/01/2019 passed in MCRC No. 8033/2019, Janak Lal Nishad @ Manharan V/s State of Chhattisgarh and vide order dated 16/09/2020 passed in MCRC No. 4740/2020, Khilesh Verma V/s State of Chhattisgarh***. He lastly submits that the appellant is in jail since 03/07/2020, charge sheet already been filed and conclusion of the trial is likely to take some time. 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) Heard learned counsel for the parties & perused the case dairy.
- 6) Shital Marko W/o Bhagwan Das, mother of the prosecutrix is present in person and she has no objection to grant of bail to the appellant. She submits that they have good relation with the appellant.
- 7) Considering the facts and circumstances of the case, no objection raised by the mother of the prosecutrix, statement of the prosecutrix under Section 164 of Cr.P.C. where she states that no forcible sexual intercourse was made by the present appellant, charge sheet has already been filed, the detention period of the appellant and that conclusion of trial is likely to take some time, without commenting anything on merits of the case,

this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is **allowed**. It is directed that in the event of appellant executing a personal **bond** for a sum of **Rs. 50,000/-** with two sureties of Rs. 25,000/- 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 not involve himself in any offence of similar nature in future.

-Sd/-
(Gautam Chourdiya)
Judge

Chandrakant