

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 853 of 2020

- Niral Kumar Yadav son of Jagat Ram Yadav, aged about 19 years, Residence of Village Dumarpara, Police Station Baradwar, District Janjgir Champa (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, through Police Station AJK Korba, District Korba (C.G.)

---- State/Non-applicant

For Appellant	:	Shri Vikas Pandey, Advocate
For Non-Applicant/State	:	Ms. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

11.01.2021

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 27.11.2019 passed by the Special Judge, (SC/ST Act), Korba, District Korba (C.G.) in Special Case (STSC) No. 26/2019, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 08.05.2019 in connection with Crime No. 17/2019 for the offence punishable under Sections 363, 366 & 376 of IPC; Section 4 of the Protection of Children from Sexual Offences Act and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- AJK, Korba, District Korba (C.G.).
2. Allegation against the present appellant is that he alongwith co-accused namely Anand Yadav abducted the prosecutrix, a minor girl, from the lawful guardianship of her parents and subjected her to forcible sexual intercourse.
3. Notice has been served upon the father of the prosecutrx, but he is not present before this Court and there is also no representation on behalf of the prosecutrix.
4. Learned counsel for the appellant submits that the appellant is innocent and

has been falsely implicated in this case. He further submits that the age of prosecutrix is 17 years but no ossification test has been conducted. He also submits that the prosecutrix, in her 164 Cr.P.C. statement, has herself admitted that she left her house of her own. He also submits that the appellant is in jail since 08.05.2019 and co-accused namely Anand Yadav has been granted regular bail by the coordinate bench of this Court vide order dated 27.05.2020 passed in M.Cr.C. No. 913 of 2020, therefore, on the ground of parity the present appellant be also released on bail.

5. On the other hand, learned counsel for the State opposes the appeal.
6. Having heard learned counsel for the parties, considered the totality of the fact, in particular the detention period of the appellant, charge-sheet has already been filed, conclusion of the trial is likely to take some time and the co-accused person in this case has been granted regular bail by the coordinate bench of this Court, I am inclined to release him on regular bail. Accordingly, the appeal is allowed.
7. It is directed that in the event of appellant executing a personal bond for a sum of Rs.25,000/- with one solvent surety for the like amount 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.
 - 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