

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 854 of 2020

1. Gangaram Sinha S/o Late Shri Kashi Ram Sinha, Aged About 24 Years, R/o Village Majargatta, Tahsil And Police Station Gariyaband, District Gariyaband (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh, Through The S.H.O., Police Station City Kotwali, District Gariyaband (C.G.).
2. Smt. Chameli Bai W/o Narayan Singh, R/o Village Dongri, Tahsil And Police Station City Kotwali, District Gariyaband (C.G.)
(***Complainant/mother of prosecutrix***)

---- Respondents

For Appellant	:	Shri Devershi Thakur, Advocate.
For Respondents/State	:	Shri Vimlesh Bajpai, Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

13/01/2021

- 1) This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 29/09/2020 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 03/03/2020 in connection with Crime No. 418/2020 for the offence punishable under Section 376 of Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station City Kotwali, District Gariyaband (C.G.).

- 2) Allegation against the appellant is that on 26/02/2020 he committed rape with the prosecutrix, a deaf and dumb girl. On report being lodged to the above effect, 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 MLC, no injury was found on the person of the prosecutrix which shows that she was a consenting party. The necessary ingredients for attracting for offence under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are missing in this case. He further submits that the appellant is in jail since 03/03/2020, charge sheet has 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) Notice has been served upon mother of the prosecutrix, neither she is present in person nor is there any representation on her behalf.
- 7) Considering the facts and circumstances of the case, the nature of allegations against the appellant, the fact that the prosecutrix is a deaf and dumb girl, there is nothing in the case diary to show that the appellant was having any affair with the prosecutrix, the statement of the eye witnesses, without commenting anything on merits of the case, this Court finds no illegality or perversity in the order impugned of the trial Court rejecting the bail application of the appellant.

- 8) In the result, the appeal being without any substance is liable to be dismissed and is, accordingly **dismissed**.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant