

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 826 of 2020**

- Iltap @ Iltabh Ansari S/o Ajmal Ansari Aged About 25 Years Caste- Mushalmaan, R/o Village Jhapi Darha, Police Station And Tehsil Bagicha, District Jashpur, Chhattisgarh.

---- Appellant**Versus**

- State Of Chhattisgarh Through Station House Officer Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Respondent /State

For appellant	: Shri Hariom Rai and Shri Sachin Nidhi, Advocates
For Respondent/State	: Dr. (Ms.) Veena Nair, Dy.A.G.

Hon'ble Justice Shri Gautam Chourdiya**Order on Board****28.01.2021**

1. This appeal by the accused/appellant has been filed under Section 14(A)2 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 378(4) of Criminal Procedure Code, is directed against the order dated 31.12.2019 passed by the Special Judge (SC/ST), Jashpur (C.G.) in Special Case No.22/2019, refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 450, 376 (D), 392, 34 of IPC and Section 3(2)(V) of the SC/ST Act, registered at Police Station- Bagicha, District- Jashpur (C.G.).
2. Case of the prosecution in brief is that the appellant used to call the prosecutrix on her mobile phone and send obscene messages through Whatsapp. On objection being raised by the

prosecutrix the appellant threatened her that he would commit rape with her alongwith his friends. On 22.10.2019 when the prosecutrix, physically challenged lady of 25 years, after attending call of nature, was sleeping in her room, three unknown person entered her room and committed forcible sexual intercourse with her, one after another. It is also alleged that the accused persons have committed robbery of Rs. 20,000/- as well the sound box worth Rs. 5,000/- in her house. After the incident the prosecutrix informed about the same to her maternal uncle and aunt. On report being lodged to the above effect under aforesaid Sections offence have been registered against the present appellant and three other unknown co-accused persons.

3. Learned counsel of the appellant submits that the allegations against the appellant are false and fabricated, the appellant was granted temporary bail by this Court vide order dated 02.06.2020 passed in MCRC No. 2835/2020 up till 30.06.2020. He further submits that the appellant has been arrested merely on the basis of suspicion. Charge-sheet has been filed and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.
4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that prima-facie case is made out against the appellant because the appellant alongwith co-accused persons made forcible physical relation with the prosecutrix who is physically challenged lady, MLC report also support case of the prosecution, however, the appellant has no criminal antecedents.
5. Having considered the submission made by learned counsel for the parties, the manner in which the crime has been committed, that fact that the prosecutrix is a physically challenged lady, MLC report supports case of the prosecution, trial has already

commenced, witnesses of the case are yet to be examined, all the accused persons are yet to be identified by the prosecutrix, I am not inclined to grant bail to the appellant. This Court finds no illegality or infirmity in the impugned order of the trial Court, rejecting the bail application of the appellant.

6. Accordingly, the appeal being without any substance is hereby dismissed.

Sd/-

(Gautam Chourdiya)
Judge

Nadim