

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 795 of 2020**

- Purushottam Sahu S/o Chetan Sahu Aged About 21 Years
R/o- Subhash Nagar, Lal Bagicha Dhamtari, Police Station –
City Kotwali Dhamtari, District - Dhamtari (C.G.)

---- Appellant**Versus**

- State Of Chhattisgarh Through The Station House Officer,
Police Station - City Kotwali Dhamtari, District - Dhamtari
(C.G.)

---- Respondent

For Appellant	:Mr. Shivendu Pandya, Advocate.
For Respondent/State	: Mr. Dinesh RK Tiwari, Dy. Govt. Advocate.
For Complainant	: Mr. Govind Dewangan, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****15.01.2021**

1. The appellant has filed the appeal under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 11.09.2020 passed in Crime No. 334/2020 by learned Special Judge (Atrocities Act), Dhamtari District – Dhamtari rejecting his application under Section 439 of the Cr.P.C. The appellant is in jail since 27.07.2020 in connection with offence punishable

under Sections 363, 366, 376 of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 (In short "POCSO Act") and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station –City Kotwali Dhamtari, District- Dhamtari (C.G.).

2. Case of the prosecution, in brief, is that appellant, on the pretext of marriage, committed sexual intercourse with the minor prosecutrix knowing fully well that she is the member of Scheduled Caste few months prior to lodging of the FIR by her sister (complainant) and thereby committed the aforesaid offences.
3. Learned counsel for the appellant submits that the appellant has been falsely implicated in crime in question as there is no evidence on record to connect the appellant with the crime in question. He further submits that the appellant & the prosecutrix were having physical relation for a long time and both are agreed to marry and the family members of prosecutrix have no objection to release of the appellant on bail. He further submits that the prosecutrix stated in her statement that she had accompanied the accused/appellant voluntarily on her own will. Therefore, it is prayed that he be released on bail.
4. Shri Govind Dewangan, counsel appearing on behalf of the

complainant submits that the prosecutrix has no objection, if the appellant is released on bail. He further submits that the present appellant & the prosecutrix both are ready to marry with each other as they are having love affair for a long time therefore, the prosecutrix has no objection, if the appellant be released on bail.

5. On the other hand, learned counsel for the State opposes the submission made by counsel for the appellant and complainant and supports the impugned order.
6. Heard learned counsel for the parties and perused the material available on record.
7. Looking to the facts & circumstances of the case, allegation made against the appellant, the age of the prosecutrix i.e. 17 years & 8 months, 5 days, the fact that she (prosecutrix) alongwith the appellant has visited different places from 23.07.2020 to 27.07.2020, the contention made by counsel appearing for the prosecutrix that the prosecutrix has no objection to grant the bail to the appellant, the detention period of the appellant and charge sheet has already been filed, the fact that there is no apprehension of the accused/appellant tampering with the evidence or absconding as stated by both the counsels for the parties and that disposal of the trial is likely to take some time, without commenting on merits of the case, I am 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 for the amount 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