

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 852 of 2020**

- Wasim Sheikh @ Safal @ Sarfaraz S/o Wakil Sheikh Aged About 19 Years R/o. Sant Sajjan Ward Near Railway Station Tiroda, P.S. Tiroda, District Gondia, Maharashtra. ---- **Appellant**

Versus

- State Of Chhattisgarh Through Police Station Gunderdehi District Balod (Chhattisgarh). ---- **Respondent**

For appellant : Shri Priyank Rathi, Advocate
For Respondent/State : Shri Vimlesh Bajpai, G.A.

Hon'ble Justice Shri Gautam Chourdiya**Order on Board****12.01.2021**

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 19.11.2019 passed by the Special Judge (SC/ST Act), Balod (C.G.) in Special Sessions No. 47/2019 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 363, 366, 376, 109 IPC, Section 4, 5(३) 6 and 17 of POCSO and 3(2)(5) SC/ST Act, registered at Police Station Gundardehi, District- Balod (C.G.). The appellant is in jail since 08.05.2019.
2. Prosecution case is that the appellant and the prosecutrix had friendship through Facebook and on 30.4.2019 from Bhilai Power House Railway Station the appellant/accused along with other co-accused person took the prosecutrix to Nagpur and at various places in Nagpur the appellant made physical relation with the prosecutrix. The father of the prosecutrix lodged a written report against the unknown persons that her daughter was abducted, after investigation police recovered the prosecutrix from the appellant and he was arrested on

08.05.2019.

3. Learned counsel for the appellant submits that the appellant has falsely been implicated in the case, the appellant had not committed any offence. As per statement of the prosecutrix her age is 15 years 3 months, no forcible sexual act committed by the appellant/accused as per deposition of the prosecutrix recorded during trial before the trial Court, age of the prosecutrix is based on Dakhil Khariz Ragister of the school but no conclusive proof or evidence adduced by the prosecution to show that the prosecutrix was minor at the time of incident, the appellant is in jail since 08.05.2019 he has no criminal antecedents and conclusion of the trial is likely to take some time, therefore, he may be granted bail.
4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that prosecutrix was minor at the time of incident and she was recovered from the appellant. Learned State counsel further submits that the appellant has no criminal antecedents.
5. Father of the prosecutrix is present in person and he has raised objection to the appeal filed by the appellant to release him on bail.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the material on record, age of the prosecutrix below 16 years and the prosecutrix was recovered from the custody of the appellant/accused, without expressing anything on merits of the case, this Court finds no illegality or infirmity in the impugned order of the trial Court.
7. Accordingly, the appeal being without any substance is hereby dismissed.

Sd/-
(Gautam Chourdiya)
Judge