

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**(Proceedings through Video Conferencing)****Criminal Appeal No. 877 of 2020**

- Suresh Yadav @ Naku Yadav S/o Bipat Yadav Caste Bargah, aged about 28 years Caste Bargah, R/o Bhavanipur, Police Station Balrampur, District – Balrampur-Ramanujganj (CG) (father name as Vijay Yadav wrongly mentioned in impugned order)

---- Appellant**Versus**

- State of Chhattisgarh, through, Station House Officer, P.S. - Ajak, Balrampur, District Balrampur-Ramanujganj (C.G.)

----State/Respondent

For Appellant	:	Shri Awadh Tripathi, Advocate
For Respondent /State	:	Shri K.K. Singh, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****27.07.2021**

1. This appeal by the accused/appellant under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 28.08.2020 passed by the Special Judge (SC/ST Act), Balrampur at Ramanujganj (C.G.) in Bail Application No. 361/2020, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 23.07.2020 in connection with Crime No. 36/2020 for the offence punishable under Sections 294, 506 & 376 (2) (n) of IPC and Sections 3(1) (r) (s) & 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Ajak Balrampur, District Balrampur-Ramanujganj (C.G.).
2. Prosecution case in brief is that prosecutrix has lodged the report in Police Station Ajak, Balrampur stating that she is resident of Village Aghora. In the year 2016 she met with the accused/appellant. Prosecutrix stated that when she was living at Ambikapur on rented house for studying, the appellant came to her and on 14.12.2016, the appellant made physical relation with

her. The appellant married the prosecutrix in the Court on 22.12.2016. Thereafter, the appellant did not come to her. Prosecutrix stated that when she went to the house of appellant's sister 02.01.2017, then she came to know that the appellant was already married and his marriage was solemnized with another lady. Thereafter, the prosecutrix told the appellant to take divorce from his wife. On 03.01.2017 while the prosecutrix was going to house from the shop, the appellant threatened to kill her and he refused to live with her.

3. Learned counsel for the appellant submits that the appellant is an innocent person, he has been falsely implicated in this case. He also submits that the appellant is in jail since 23.07.2020 and conclusion of the trial is likely to take some time. He further submits that the prosecutrix is a major girl and she made physical relationship with appellant on 14.12.2016 with her own free will, thereafter they have performed the court marriage and as such the allegation of commission of rape on the pretext of marriage is not made out. Therefore, the appellant be released on bail. Reliance has been placed on the decision of the Hon'ble Supreme Court in ***Maheshwar Tigga vs. State of Jharkhand*** reported in ***(2020) 10 SCC 108***.
4. On the other hand, learned counsel for the State opposes the bail.
5. Having gone through the judgment relied upon by the learned counsel for the appellant in the matter of *Maheshwar Tigga* (supra), I am of the opinion that this judgment being distinguishable on facts is of no help to the appellant.
6. Considering the facts and circumstances of the case, the fact that as per complaint of the prosecutrix, in the presence of Notary, she and the appellant performed the marriage, the false fact narrated by the appellant that they performed court marriage; the appellant from the beginning told the

prosecutrix that he is bachelor but he was already a married person; he committed forcible intercourse with the prosecutrix on the pretext of marriage with her giving false information to her that he is bachelor, on 22.12.2016 the appellant perform marriage in presence of Notary with the prosecutrix which is not valid under the law and thereafter he left her; when prosecutrix inquired she came to know that the appellant has already married another lady; the prosecutrix is a tribal girl and the appellant sexually exploited her; without commenting anything on merits of the case, this Court is not inclined to release the appellant on bail. The order impugned of the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the present appeal being without any substance is hereby dismissed.

Sd/-
(Gautam Chourdiya)
Judge