

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 884 of 2020

- Shanker Ram @ Chaklu Bargah S/o Shri Ramlakhan Bargah, aged about 25 years, R/o Village – Devgarh, Thana – Seetapur, District Surguja (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, through the District Magistrate Ambikapur, District Surguja (C.G.)

---- State/Respondent No.1

(Details of Respondent No.2 are concealed as per order of the Court)

---- Respondent No. 2

For Appellant	: Shri Sunil Sahu, Advocate
For Respondent/State	: Shri Vimlesh Bajpai, Government Advocate
For Objector	: None

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

12.03.2021

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 14.07.2020 passed by the Special Judge (Atrocities), Ambikapur, District Surguja (C.G.) in Bail Application No. 408/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 20.04.2020 in connection with Crime No. 67/2019 for the offence punishable under Sections 365 & 376 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Seetapur, District Surguja (C.G.).
2. Prosecution case in brief is that the prosecutrix belongs to scheduled tribe community being of Pahadi-Korwa caste. Prosecutrix lodged a report against the appellant stating that on 25.05.2019 when she had gone to village Udamkela Turripani for attending marriage ceremony, at about 00:30 hours

in the night, she went outside for washing her hands, at that time appellant came there and caught hold of her hand, dragged her towards forest after gagging her mouth and committed sexual intercourse with her against her will and fled away from there. Thereafter, she came back to marriage house and narrated the incident to one Sairam, his wife and her husband. Therefore, F.I.R. was lodged by the prosecutrix against the appellant in Police Station Seetapur, District Surguja (C.G.).

3. Learned counsel for the appellant submits that the prosecutrix is a major and married lady and the appellant has been falsely implicated in this case by the prosecutrix. He further submits that the appellant is in jail since 20.04.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State opposes the appeal.
5. I have heard learned counsel for the parties.
6. Though notice has been duly served upon the prosecutrix, however, neither she is present in person nor is there any representation on her behalf.
7. Considering the facts and circumstances of the case, the fact that prosecutrix (PW-1) and her husband Naiher Sai (PW-2) stated in their depositions that the appellant has not committed any offence with the prosecutrix, they have not supported the prosecution case and have been declared hostile by the prosecution, the prosecutrix is a married lady aged about 30 years, no injury was found on her body, detention period of the appellant who is 25 years old, charge-sheet has already been filed, conclusion of the trial is likely to take some time and he has no criminal antecedent as stated by the both the counsel, there is no apprehension of the appellant tampering with the evidence or absconding, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal

is allowed and the impugned order is set aside.

8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- 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.
- 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