

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 880 of 2020

- Lomendra Das @ Dadu Manikpuri, aged 24 years, S/o Dhanuk Das Manikpuri, R/o Village Parsadihi Police Station Suregaon, Post-Bhadera, Balod, District Balod (C.G.)

---- Appellant

Versus

- State of Chhattishgarh, Through Police, Civil Lines Raipur, District Raipur (C.G.)

---- Respondent/State

For Appellant	:	Shri Sanjay Agrawal, Advocate
For Respondent/State	:	Shri Dinesh Kumar Tiwari, Deputy Government Advocate

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

04.02.2021

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 14.10.2020 passed by the Special Judge, (Atrocities) Act, Raipur (C.G.) in Special Sessions Case No. 19/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 01.09.2020 in connection with Crime No. 288/2020 for the offence punishable under Sections 376 of IPC; Section 67 of Information Technology Act and Section 3 (2) (v-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Civil Lines, Raipur, District Raipur (C.G.).
2. As per prosecution case, the appellant, aged about 24 years, and the prosecutrix, aged about 35 years, were having affair and the appellant made physical relations with the prosecutrix. Thereafter, the appellant on promise

of marriage continuously established sexual relations with the prosecutrix, but subsequently he refused to marry her. It is further alleged that the appellant made an obscene video of the prosecutrix and shared it publicly on the social media. Therefore, the prosecutrix lodged the report against the appellant at Police Station Civil Lines, Raipur, District Raipur (C.G.).

3. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that the prosecutrix is major lady, she has physical relations with the present appellant from 01.06.2019 to 31.12.2019 and she lodged the F.I.R. on 30.07.2020 against the appellant. He further submits that previously the prosecutrix has also lodged the report under Section 376 of IPC against another person namely Tumanlal Dadsena on 17.02.2019 which was registered in Police Station Khamtarai, Raipur under Crime No. 74/2019. He also submits that the appellant is in jail since 01.09.2020, 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. Considering the facts and circumstances of the case, particularly considering the age of the prosecutrix i.e. 35 years of age, she was having physical relations with the present appellant from 01.06.2019 to 31.12.2019, she lodged delayed F.I.R. i.e. on 30.07.2020 and the fact that the prosecutrix lodged F.I.R. 17.02.2019 against another person namely Tumalal Dadsena in Police Station Khamtarai, Raipur under Section 376 of IPC under Crime No. 74/2019, she was also having physical relations with Tumanlal Dadsena from the year 2017 to 2018 and that the appellant is in jail since 01.09.2020, charge-sheet has already been filed, conclusion of the trial is likely to take

some time, 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.

7. 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/- 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.
- 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