

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 873 of 2020

- Avinash Bihariya S/o Late Ramashankar Bihariya Aged About 38 Years R/o Village- Khedali Bazar, Multai, Baitul, District- Baitul (Madhya Pradesh). **---- Appellant**

Versus

- State Of Chhattisgarh Through- Sho, Police Station- Civil Lines, District- Bilaspur (Chhattisgarh).
- Seema Anchal D/o B.P. Anchal Aged About 38 Years Ward No. 4, Kasturba Nagar Near Sanjay Bhuvan, P.S. Civil Lines Bilaspur, District - Bilaspur (Chhattisgarh). **---- Respondents**

For appellant	: Shri Vivek Sharma, Advocate
For Respondent/State	: Shri Dinesh Tiwari, Dy.G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

11.01.2021

1. This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, under Section 439 of the Code of Criminal Procedure, 1973 is directed against the order dated 28.10.2020 passed by the Special Judge (ST/SC), Bilaspur (C.G.) in Crime No. 343/2019 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Sections 376 of IPC and Section 3(2)(5) of the SC/ST Act, registered at Police Station- Civil Lines, District- Bilaspur (C.G.). The appellant is in jail since 20.10.2020.
2. Case of the prosecution in brief is that while the prosecutrix was working as guest lecturer in Government Navin College, Kawardha in the year of 2016 she got acquainted with the present appellant who was working there as guest lecturer and

their friendship turned into love affair. Both of them were to perform marriage on their job being permanent. It is alleged that during the period from 07.11.2015 and 30 to 31.01.2016 the appellant had forcible physical relation with the prosecutrix on the pretext of marriage and subsequently started avoiding contact with the prosecutrix. On call being made by the prosecutrix at Sakhi Centre Kawardha counseling was conducted between the prosecutrix and the appellant, where appellant told that he would think over at but subsequently refused to marry the prosecutrix. Thereafter, the prosecutrix lodged report against the appellant and the aforesaid offence has been registered against him.

3. Learned counsel for the appellant submits that the allegations against the appellant are false and fabricated, he is falsely implicated in the case. He submits that prosecutrix is 30 years old major lady and she was having relationship with the appellant from November, 2015 to January, 2016 and prosecutrix was a consenting party. The prosecutrix lodged report after long delay of 3 years and that the appellant/accused is in jail since 20.10.2020 and he has no criminal antecedents and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.
4. On the other hand, learned State Counsel opposes prayer for grant of bail. He further submits that the appellant has no criminal antecedents.
5. Prosecutrix is present in person, she stated that she has objection to grant of bail to the appellant.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the nature of allegation, age of the prosecutrix, the fact that the appellant and the prosecutrix had relationship from 07.11.2015 to 31.01.2016 and F.I.R. was

lodged after three years of the incident, detention period of the appellant and the fact that the appellant has no criminal antecedents as admitted by both the counsel and conclusion of the trial is likely to take some time, therefore, the appeal is allowed. It is directed that in the event of the 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 following conditions:-

- (a) 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.
- (b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (c) he shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (d) he shall not involve himself in any offence of similar nature in future.

Sd/-

(Gautam Chourdiya)
Judge

Nadim