

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 902 of 2020**

- Tukaram Kashyap S/o Shri Ved Kumar Kashyap, aged about 21 years, R/o Village- Sarona Sewapara, Thana & Tahsil- Narharpur, Civil & Revenue Distt.- North Baster Kanker (C.G.).

---- Appellant**Versus**

1. State Of Chhattisgarh Through the District Magistrate Kanker, Distt.- North Baster Kanker, Chhattisgarh.
2. Devchand Korram S/o. Late Shri Ishwar Singh Korram, aged about 38 years, R/o Village- Choriya Dhabapara, Police outpost- Choriya Dhabapara, Police outpost- Dudhawa, Thana- Narharpur, Distt.- North Bastar Kanker (Chhattisgarh).

----- Respondents

For appellant	: Mr. Sumit Shrivastava, Advocate
For Respondent/State	: Ms. Smriti Shrivastava, P. L.

Hon'ble Justice Shri Gautam Chourdiya**Order on Board****13.01.2021**

1. This appeal by the accused/appellant under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 18.06.2020 passed by the Special Judge (SC/ST Act), North Bastar Kanker (C.G.) in Crime No. 60/2019 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Sections 363, 366, 376, 450, 344 376 (2) (n) of IPC and Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012 (in short "POCSO Act") and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station- Narharpur, District- North Baster Kanker (C.G.).

2. The prosecution case in brief is that the appellant entered the house of the prosecutrix minor girl of Scheduled Tribe community and committed rape with her. Thereafter, he abducted her on pretext of marriage took her to Raigarh and Orissa, there he committed repeated sexual intercourse with her. On the basis of the report lodged by father of the prosecutrix, the aforesaid offences have been registered against the present appellant.
3. Learned counsel for the appellant submits that the allegation against the appellant are false and fabricated. He also submits that due to some dispute occurred between the appellant and the father of the prosecutrix a false report has been lodged by the father of the prosecutrix. It is also submitted that the appellant has no criminal antecedents, he is in jail since 22.06.2019, 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 and submits that prima-facie case is made out against the appellant because on the pretext of marriage the present appellant made forcible physical relation with the prosecutrix who was below 16 years of age. He also submits that the appellant has no criminal antecedents.
5. The uncle of the prosecutrix is present before the Court and he objected to grant the bail to the appellant.
6. Having considered the submission made by learned counsel for the parties, that the prosecutrix was below 16 years age at the time of incident, on the pretext of marriage the appellant continuously sexually exploited her and subsequently refused to marry her, charges have already been framed against the appellant as per impugned order of the trial Court dated 18.06.2020. 15 witnesses have been examined, trial is in progress, without expressing anything on merits of the case, this Court finds no illegality or infirmity in the impugned order of the trial Court in rejecting the bail application of the appellant.

7. Accordingly, the appeal being without any substance is hereby dismissed.

Sd/-
(Gautam Chourdiya)
Judge

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