

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 954 of 2020

1. Arijeet Beera S/o Shri Shankari Prasad Beera, Aged About 34 Years, Resident Of Narmada Nagar, Bilaspur, Revenue District Bilaspur (C.G.).

----Appellant

Versus

1. State Of Chhattisgarh, Through The Station House Officer, Police Station AJAK Bilaspur, District Bilaspur (C.G.).

---- Respondent

For Appellant	:	Mr. K.P.S. Gandhi, Advocate.
For Respondent/State	:	Mr. Chandra Bhushan Kesharwani, P. L.
For Objector	:	Mr. Pawan Kumar Kashyap, Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

18/01/2021

- 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 16/11/2020 in Bail Application No. 1565/2020 passed by the Special Judge, SCST(PA) Act 1989, Bilaspur (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 29/10/2020 in connection with Crime No. 708/2018 for the offence punishable under Section 376 of Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station AJAK Bilaspur, District Bilaspur (C.G.).
- 2) Case of the prosecution, in brief is that the prosecutrix lodged a written complainant against the appellant what she is working as accountant in "Mahakal Digital Security Service and Sales" at Narmada Nagar, Bilaspur. On 31/07/2018 in between 03:30 to

6 PM while she was in her office, the present appellant having found her alone, committed forcible sexual intercourse with her.

- 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 in fact the prosecutrix had taken away Rs. 40,000/- of "Mahakal Digital Security Service and Sales", run by the mother of the appellant, she was not returning the same on being demanded by the appellant, the appellant made a written complainant against the prosecutrix on 01/08/2018 about the same to the superintendent of Police, Bilaspur with a copy to DIG, Raipur, IGP Bilaspur, SHO PS Civil Line and SHO of Mahila Thana Bilaspur vide Annexure A/2. Therefore, the prosecutrix lodged a false report against the appellant on 02/08/2018. As per MLC of the prosecutrix, no injury, internal or external, was noticed by the Doctor on the person of the prosecutrix. He further submits that the appellant is in jail since 29/10/2020, charge sheet has been filed and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
- 4) Learned counsel for the State opposing the submission made by the appellant's counsel submit that the appellant committed forcible sexual intercourse with the prosecutrix, due to fear she could not lodge report immediately after the incident and it was lodged on 02/08/2018. In her statement under Section 164 of Cr.P.C. she has categorically stated about the act of the appellant. Therefore, the impugned order of the Trial Court rejecting the bail application does not suffer from any illegality or infirmity calling for interference by this Court.
- 5) Mr. Pawan Kumar Kashyap, counsel for the complainant/ Objector has no objection to grant of bail to the appellant.
- 6) Heard learned counsel for the parties & perused the case dairy.
- 7) Considering the facts and circumstances of the case, the fact that the prosecutrix is a grown up lady of 25 years, delay in

lodging the FIR, the fact that prior to the said incident a written complaint was made by the appellant to the Police authorities against the prosecutrix that she had taken away Rs. 40,000/- from his office and not returning the same, no injury was found on the body of the prosecutrix as per her MLC, the detention period of the appellant, charge sheet has already been filed, no objection raised by the counsel for the complainant/Objector and that conclusion of trial is likely to take some time, without commenting anything on 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**. 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, and
- 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