

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 945 of 2020

- Ramphal @ Nanu Yadav, 23 years, S/o Ashok Yadav, R/o Bhimpuri, P.S. Fasterpur, District Mungeli (C.G.)

---- Appellant/Applicant

Versus

- State of Chhattisgarh through Officer-in-Charge of P.S. - Fasterpur, District Mungeli (C.G.)

---- State/Non-Applicant

For Appellant : Shri Pallav Mishra, Advocate

For Respondent/State : Shri Vimlesh Bajpai, Government Advocate

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

20.01.2021

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 07.11.2020 passed by the Special Judge (POCSO Atrocities), Mungeli, District Mungeli (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 17.10.2020 in connection with Crime No. 14/2019 for the offence punishable under Sections 363, 366 & 376 of IPC; Sections 4 & 6 of the Protection of Children from Sexual Offences Act and Section 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Fasterpur (AJAK Mungeli), District Mungeli (C.G.).
2. Allegation against the accused/appellant is that he has abducted the prosecutrix, enticing her and took her to Pune, Maharashtra from the lawful guardianships of her parents. Further allegation against the appellant is that the appellant committed sexual intercourse with the prosecutrix. The report was lodged by the father of the prosecutrix namely Nand Kumar against

unknown person.

3. Prosecutrix alongwith her father namely Nand Kumar appeared before this Court in person and requested that the appellant may be released on bail. The prosecutrix stated that she was having physical relations with the appellant and she is carrying 24 weeks pregnancy. She further stated that she alongwith the appellant are living together as husband and wife prior to lodging of the report.
4. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. He also submits that both the appellant and the prosecutrix are major, both were having physical relations with their free consent prior to lodging of report against the appellant. He submits that the appellant is in jail since 17.10.2020 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
5. On the other hand, learned counsel for the State opposes the appeal.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that the prosecutrix and the appellant were having continuously physical relations prior to lodging of the report, as per birth certificate of the prosecutrix issued by Directorate of Economics & Statics Madhya Pradesh, her date of birth is 26.05.2000, she was major at the time of incident and she has no objection to grant of bail to the appellant and that the appellant is in jail since 17.10.2020, conclusion of the trial is likely to take some time, 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