

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 952 of 2020**

Devidutt Gahwai, S/o Arjun Lal Gahwai, Aged About 40years, R/o Panna Nagar, Behind Jatia Talab, Jarhabhata, P.S. Civil Lines, Bilaspur, District- Bilaspur (C.G.) ----- **Appellant**

Versus

1. The State of Chhattisgarh, Through- The District Magistrate, Bilaspur, District- Bilaspur (C.G.)

(Details of Respondent No.2 are concealed as per order of the Court.)

For appellant	: Shri Ravindra Agrawal, Advocate
For Respondent No.1/State	: Dr. (Ms.) Veena Nair, Dy.A.G.
For Prosecutrix/ Complainant	: Shri Rishi Rahul Soni, Advocate

Hon'ble Justice Shri Gautam Chourdiya**Order on Board****20.01.2021**

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 06.11.2020 passed by the Special Judge (SC/ST Act), Bilaspur (C.G.) in Crime No. 03/2018 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 376 of IPC and Section 3 (2) (v) and (va) of the SC/ST Act, registered at Police Station- Anusuchit Jati Kalyan Police Thana, Bilaspur, District- Bilaspur (C.G.). The appellant is in jail since 29.10.2020.
2. Prosecution story in brief is that the appellant is proprietor of Nicetech Computer Education Centre, Jarhabhatha, where the prosecutrix took admission for coaching of Tally course from 01.07.2015 to 30.12.2015. During this period, the present appellant developing intimacy with the prosecutrix and since December 2015 till February 2018 he had physical relations with the prosecutrix continuously on the pretext of marrying her however, subsequently the appellant refused to marry her.

3. Learned counsel for the appellant submits that the prosecutrix is a well grown up married lady, aged about 27 years and having child from her husband namely Vishwajeet Kurrey, the prosecutrix had joined the said computer centre in the year of 2015 for coaching, later on, there she started job as Counsellor, thereafter for some reasons she was removed from the said post due to which she lodged report against the appellant. Whatever happened between the prosecutrix and the appellant was consensual therefore, no offence is made out against the present appellant, FIR has also been lodged after three years of the incident. It is further submitted that appellant is in jail since 29.10.2020 and that the appellant 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 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, however, the appellant has no criminal antecedents.
5. Counsel for the prosecutrix/complainant submits that the prosecutrix has raised objection to grant of bail to the appellant.
6. Having considered the submission made by learned counsel for the parties, age of the prosecutrix who is 27 years grown up married lady, having one child, living separately from her husband after divorcing him, the conduct of the prosecutrix, charge-sheet has already been filed, FIR 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, without commenting on merits of the case, considering the facts and circumstances of the case, 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 him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future or this order granting bail to the applicant shall automatically stand cancelled without further reference to the Bench.

Sd/-

(Gautam Chourdiya)
Judge

Nadim