

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 942 of 2020**

Pratap Agriya s/o. Sukhnandan Agriya, aged about 21 years,
resident of Kotmer, Police Station Kartala, District Korba (CG).

---Appellant**Versus**

State of Chhattisgarh, through Police Station Chhal, District
Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Vineet Kumar Pandey, Advocate.
For State	:	Mr. Sameer Uraon, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****27-01-2021**

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 impugned order dated 20-10-2020 passed by the Special Judge, (Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Raigarh, District Raigarh, C.G. in Special Criminal Case under the Atrocities Act/63/2019, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 13-9-2019 in connection with Crime No.149 of 2019 for the offence punishable under Sections 363, 366, 376 (2)(n) of Indian Penal Code, Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012 and under Sections 3(2)(b)(1) 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Case of the prosecution, in brief, is that on 4-9-2019 the father of the prosecutrix lodged a missing report in Police Station stating that his daughter aged about 16 years and 2 days was missing from 2-9-2019 at about 10.00 pm and her mobile phone was also switched off. On the basis of report lodged in Police Station, during investigation the prosecutrix was recovered from the house of the appellant on 12-9-2019.
3. Learned counsel for the appellant submits that appellant is an innocent person and has been falsely implicated in this case. He also submits that there was love affair between the appellant and the prosecutrix and she was a consenting party and appellant performed marriage with the prosecutrix in temple and thereafter they lived together as husband and wife in the house of the appellant and still appellants wants to live with the prosecutrix. He would further submit that appellant and prosecutrix belong to different castes and due to social restrictions, father of the prosecutrix does not want to marry the prosecutrix with the appellant. There is also no conclusive proof showing that the prosecutrix was minor at the time of incident. In these circumstances, *prima facie*, no offence can be made out against the appellant. He is in custody since 13-9-2019 and conclusion of the trial is likely to take some time, therefore, he may be released on bail.
4. Learned counsel for the State opposes the bail application.
5. On earlier occasion i.e., on 18-1-2021 grand-father of the

prosecutrix namely Sakharam Rathia was present in the Court and raised no objection to grant of bail to the appellant, however, in the order sheet dated 18-1-2021 it was inadvertently mentioned that he raised objection to release of the appellant on bail. Today, prosecutrix and her grand-father namely Sakharam Rathia are present before the court. Prosecutrix submits that it is true that appellant and prosecutrix belong to different castes, prior to the date of incident appellant and prosecutrix had love affair with each other and their marriage was performed in temple, but due to social restrictions, her parents do not want to marry her with the appellant. She further submits that she wants to stay with her parents and they have no objection, if bail is granted to the appellant.

6. I have heard learned counsel for the parties and perused the case diary.
7. Perusal of the case diary shows that the prior to the date of incident the applicant and prosecutrix had love affair with each other, the appellant married her in temple and thereafter they were living together as husband and wife in the house of the appellant.
8. Considering the facts and circumstances of the case, looking to the submission made by the prosecutrix, in particular that there is no objection on behalf of the prosecutrix and her grand-father to grant of bail to the appellant, the appellant is in jail since 13.09.2020 and conclusion of 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.

9. Accordingly, the appeal is allowed and the impugned order dated 20-10-2020 passed by the trial Court is set aside. It is directed that on appellant's 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

Raju