NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 978 of 2020

- Rameshwar Yadav, S/o Shri Dilbohan, Yadav, Aged about 37 years, Caste – Ahir, R/o Village – Songersha, Chouki-Padrapath, P.S. Bageecha, District – Jashpur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through Chouki-Padrapath, Police Station – Bageecha, District-Jashpur (C.G.)

---- State/Non-Applicant

For Appellant	:	Shri Pawan Shrivastava, Advocate
For Respondent/State	:	Shri Vimlesh Bajpai, Government Advocate

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

03.03.2021

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 26.11.2020 passed by the Special Judge (Atrocities), Jashpur Nagar, District Jashpur (C.G.) in Bail Application No. 312/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 18.11.2020 in connection with Crime No. 200/2020 for the offence punishable under Sections 376 & 506 of IPC and Sections 3 (1) (w) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Bageecha, District Jashpur (C.G.).

2. Prosecution case in brief is that, the prosecutrix belongs to scheduled tribe community being of korwa caste. It is alleged that on 18.11.2020 at about 07-08:00 am, the prosecutrix had gone to her field for keeping watch on her crops, at that time the appellant came there, caught hold of her hand, when she shouted, he threatened her of life, dragged her to bushes and committed

forcible sexual intercourse course against her will. On this, prosecutrix lodged the F.I.R. in Police Station Bageecha, District Jashpur on 19.11.2020 at about 18:05 hours against the present appellant.

3. On 17.02.2021, prosecutrix was present in person before this Court alongwith her husband namely Somaru Ram and they had raised no objection to grant of bail to the appellant.

4. Learned counsel for the appellant submits that the prosecutrix is major and married lady aged about 30 years and due to political rivalry, the appellant has been falsely implicated in this case by the prosecutrix. He further submits that the appellant is in jail since 18.11.2020 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, considering the statement under Section 164 Cr.P.C. of the prosecutrix, number of persons were present at the place of incident which happened at about 08:00 am and her sister-in-law was also present, but statement of her sister-in-law was not recorded by the prosecution and the incident was informed by the prosecutrix on the same day at about 02-03:00 pm to her husband, in the statement of her husband, he stated that she informed him at about 08:00 am on the same day, but F.I.R. was lodged on the next day at 18:05 hours, and that the prosecutrix appeared in person before this Court on 17.02.2021 and on that day she raised no objection to grant of bail to the appellant, the prosecutrix is a major lady, detention period of the appellant, conclusion of the trial is likely to take some time and there is no apprehension of the appellant tampering with the evidence or absconding, 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.1,00,000/- with two sureties of Rs.50,000/- 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

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