

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 981 of 2020

- Deepak Choubey, son of Dhananjay Choubey, aged about 26 years, resident of below of Rajmahal Chowk, Kawardha, P.S. Kawardha, District Kabirdham (C.G.)

---- Appellant

Versus

1. State of Chhattishgarh, Through : Station House Officer, Police Station Kawardha, District Kabirdham (C.G.)

---- Respondent/State

2. Savita Dhruw, daughter of Mahesh Dhruw, aged about 34 years, at present resident of Darripara, House of Kumar Sahu, Kawardha, District Kabirdham, Chhattisgarh. Permanent address Pandariya, P.S. Rengakhar, Kabirdham (C.G.)

---- Respondent/Complainant

For Appellant	:	Shri B.L. Sahu, Advocate
For Respondent/State	:	Shri Dinesh Kumar Tiwari, Deputy Government Advocate
For Objector/Complainant	:	Shri Dharmesh Shrivastava, Advocate

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

29.01.2021

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 20.11.2020 passed by the Special Judge, (Atrocities Act), Kabirdham (C.G.), refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 13.11.2020 in connection with Crime No. 647/2020 for the offence punishable under Sections 376 (2) (n), 506 & 294 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Kawardha, District Kabirdham (C.G.).
2. Allegation against the present appellant is that he committed sexual intercourse with the prosecutrix/complainant, a scheduled tribe lady, in the

year 2017 on the pretext of marriage and thereafter continued to do so till 04.11.2020. When the prosecutrix asked the appellant to marry her he abused her filthily, threatened of her life and refused to marry her.

3. Prosecutrix/complainant appeared alongwith her counsel before this Court in person and she has objection to grant of bail to the appellant by this Court.
4. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He also submits that the appellant is aged about 26 years and the prosecutrix is 34 years of age, she married with one Ankit Rajput and is having one children after wed-lock. He also submits that the appellant is in jail since 13.11.2020 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, particularly considering the age of the prosecutrix i.e. 34 years, married lady, she is having one children after wed-lock from another person, she was having affair with appellant from 10.09.2017 to 04.11.2020 and the F.I.R. lodged on 12.11.2020, and that the appellant is in jail since 13.11.2020, conclusion of the trial is likely to take some time, 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.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.
- 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

vatti