

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 1011 of 2020

- Nek Mohammad @ Raja S/o Mohd. Tahrir, aged about 27 years, R/o Charcha Colliery, Ward No. 12, Masjid Line, Police Station Charcha, District Koriya (C.G.)

---- Appellant

Versus

- State of Chhattishgarh Through : Station House Officer, Police of Police Station Ajak Baikunthpur, District Koriya (C.G.)

---- Respondent/State

For Appellant	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri Dinesh Kumar Tiwari, Deputy Government Advocate

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

05.02.2021

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 29.10.2020 passed by the Special Judge, SC/ST (Prevention of Atrocities) Act, Baikunthpur, District Koriya (C.G.) in Special Criminal Case No. 14/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 04.09.2020 in connection with Crime No. 31/2020 for the offence punishable under Sections 376, 417, & 506 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Ajak Baikunthpur, District Koriya (C.G.).
2. As per prosecution case, the present appellant Nek Mohammad @ Raja falsely introduced himself to the prosecutrix as Raja Mishra and they were later having affair. The appellant on the promise of marriage continuously

established sexual relations with the prosecutrix since October 2019. When the prosecutrix came to know about the appellant's actual name and his religion, she met him, on which he threatened her that if she tells anyone about the incident, he will kill her. Therefore, the prosecutrix lodged the report against the appellant at Police Station Ajak Baikunthpur, District Koriya (C.G.).

3. Prosecutrix appeared before this Court in person and she has no objection to grant of bail to the appellant by this Court. She stated that she wants to marry with the appellant and the appellant is also ready to marry her.
4. Learned counsel for the appellant submits that the appellant is an innocent person and has been falsely implicated in this case. He submits that the prosecutrix and the appellant are having love affair from October 2019 till lodging of the F.I.R. He also submits that the appellant and the prosecutrix both want to marry and the prosecutrix is also ready to marry with the appellant, therefore, she has no objection to grant of bail to the appellant. He also submits that the appellant is in jail since 04.09.2020, charge-sheet has been filed 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. 20 years of age, she was having love affair with the present appellant since October 2019 till lodging of the F.I.R., presently both are ready to marry, and that the appellant is in jail since 04.09.2020, charge-sheet has already been filed, 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