

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 60 of 2021**

- Kapil Kumar son of Dashrath Sahu aged about 26 years, Resident of village Kopedih, District Durg(CG)

---- Appellant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station, Amleshwar District Durg, Chhattisgarh

---- Respondent

For Appellant	:	Shri Maneesh Sharma, Advocate
For Respondent/State	:	Shri Dinesh Tiwari, Dy. G.A.

None for the complainant/victim though served.

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

15/03/2021

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 15.10.2020, passed by the Additional Sessions Judge/Special Judge, Durg (CG), whereby the bail application of the applicant filed under Section 439 of Cr.P.C. was rejected. The appellant is in jail since 14.9.2020 in connection with Crime No.87/2020, registered at Police Station Amleshwar, District Durg for the offence punishable under Sections 376 and 506 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities Act).
2. Case of the prosecution in brief is that the appellant and the prosecutrix were in affair since 2015 and the appellant had

promised to marry her. In the month of March 2020 the appellant committed sexual intercourse with the prosecutrix due to which she became pregnant and the appellant forcefully fed her contraceptive pills and aborted the child. Thereafter, the appellant denied to marry the prosecutrix.

3. Learned counsel for the appellant submits that the appellant has not committed any offence and he has been falsely implicated in the case. He submits that the appellant and the prosecutrix were in love affair since 2015 and somehow in March, 2020 they developed physical relations, the prosecutrix is aged about 21 years and she was a consenting party. He submits that the medical report of the prosecutrix is negative. He further submits that the appellant is in custody since 14.9.2020 ; charge sheet has been filed and there is no apprehension that the appellant will abscond or tamper with the evidence, therefore, the appellant be release on bail.
4. On the other hand, learned counsel for the State opposes the prayer for grant of bail.
5. The prosecutrix is not present though notice is served nor any representation is made on her behalf.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case and the fact that the appellant and the prosecutrix were in love affair since 2015 and in March 2020 they developed physical relations due to which the prosecutrix became pregnant and the appellant aborted the child, but the medical report shows that no finding has been given by the Doctor in this regard; the incident happened on 11th March

2020 and the report was lodged on 11th September 2020, the appellant and the prosecutrix were having physical relations on number of times and further considering the age and conduct of the prosecutrix, 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/- 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