CGHC010392772026 2026:CGHC:47141

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2561 of 2026

1 - Lukeshwar Nishad S/o Bhojram Nishad, Aged About 32 Years R/o Village Chakarbhata, Post Sakrali, P. S. Dabhra District Sakti (C.G.) Presently Residing At Kotra Road Kostapara, P. S. Raigarh District Raigarh C.G.

... Appellant

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station Batouli, District Surguja C.G.

... Respondent

For Appellant	:	Mr. Hariom Rai, Advocate
For Respondent /State	:	Mr. Keshav Gupta, G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment on Board

16/11/2026

1. The appellant has preferred this Criminal Appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "the SC/ST Act") for

setting aside of order dated 26/09/2026 passed by the Special Judge SC/ST Act (Atrocities), Ambikapur, District Sarguja (C.G.) whereby the regular bail application filed by the appellant under Section 483 of BNSS in connection with Crime No. 63/2026 registered at Police Station Batouli, District Sarguja (C.G.) for commission of offence punishable under Sections 376(2)(n) of BNS and Section 3(ll)(v) of the SC/ST Act, 1989 has been rejected.

2. Case of the prosecution, in brief, is that victim lodged an FIR on 31/05/2026 to the effect that she was married to one Anit Kumar Chouhan on 05/06/2019 as per her customs and rituals as she belongs to Scheduled Caste community, however, subsequently, their marriage was dissolved and thereafter, she came in contact of the present appellant and entered in a love affair with him and they even performed marriage on 04/01/2023 at a temple at Ratanpur. Subsequently, they stayed together in a rented house for a considerable period and resultantly, she conceived. It is further alleged that the appellant forcibly administered abortion pills to the victim. On such complaint, police registered the aforesaid offences against the present appellant.

3. Mr. Hariom Rai, learned counsel appearing for the appellant, would contend that the age of the victim on the date of the incident was around 32 years and there was consensual relationship between the victim and the appellant. They even stayed together in a rented house for a couple of years and

maintained physical relations consensually. He would further contend that as per the contents of the FIR, marriage was also solemnized between them in a temple at Ratanpur, thus, no case for offence punishable under Section 376(2)(n) of BNS or Section 3(ll)(v) of the SC/ST Act, 1989 is made out. It is lastly contended that charge-sheet has already been filed and the appellant is in jail since 22/07/2026, therefore, he would pray that the appellant be released on bail.

4. On the other hand, Mr. Keshav Gupta, learned counsel appearing for the non-applicant/State, opposes the criminal appeal and the submission made by learned counsel for the appellant. He would submit that the appellant knew very well that the victim belonged to Scheduled Tribe and he sexually assaulted her and there are serious allegations against the appellant with regard to sexual assault of the victim in the FIR as well as in the statement of the victim recorded under Section 183 of BNSS. Thus, she would submit that the appeal deserves to be dismissed.

5. The victim appeared before this Court through video conferencing from the concerned DLSA and raised serious objection in grant of bail to the appellant.

6. I have heard learned counsel for the parties, perused the case diary and went through the material available on record.

7. Having considered the fact that on the date of the incident, the age of the victim was around 32 years, further considering that there was consensual relationship between the appellant and the

victim which continued from 2019 till 2023 and they also stayed together in a rented house for a couple of years and lastly, taking into consideration that there are no previous criminal antecedents of the appellant, charge-sheet has been filed and appellant is in jail since 22/07/2026 and conclusion of trial will likely take some time, without expressing any opinion on the merits of the case, this Court finds it appropriate to grant bail to the appellant.

8. Accordingly, the instant appeal is **allowed** and the order dated 26/09/2026 passed by the learned Special Judge, SC/ST Act (Atrocities), Ambikapur, District Sarguja is hereby **set-aside**. The **Appellant – Lukeshwar Nishad** be released on bail on furnishing personal bond with two sureties in the like sum to the satisfaction of the Court concerned with the following conditions:-

> (i) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law;
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> (ii) The appellant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against his under Section 269 of Bharatiya Nyaya Sanhita;
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> (iii) In case, the appellant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 84 of BNSS. is issued and the appellant fails to appear before the court on the date fixed in such proclamation, then, the trial

court shall initiate proceedings against him, in accordance with law, under Section 209 of the Bharatiya Nyaya Sanhita; &

(iv) The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS. If in the opinion of the trial court absence of the appellant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. However, this Court hopes and trust that the trial Court should make an earnest endeavour to conclude the trial as expeditiously as possible.

10. Office is directed to send a certified copy of this order to the trial Court concerned for necessary information and compliance.

Sd/-

(Rakesh Mohan Pandey)

JUDGE

Harneet