

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 182 of 2021**

- Beni Prasad Nishad, Son of Heeraram Nishad, aged about 33 Years, Resident of Singhanpur, Police Station Patewa, District Mahasamud, Chhattisgarh.

----Appellant**Versus**

- State of Chhattisgarh, Through the Station House Officer, Police Station Patewa, District Mahasamud Chhattisgarh.

---- Respondent

12/02/2021	Shri S.S. Paikara, counsel for the appellant. Shri Dinesh Tiwari, Deputy G.A. for the State. Heard on admission. The appeal is admitted for hearing. Call for the record of the trial Court. Also, heard on I.A. No.01 of 2021, application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 08.01.2021 passed by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Mahasamund, District Mahasamund, C.G. in Special (Atrocities) Criminal Case No.-H.09/2020, the appellant stands convicted and sentenced as under: <table><tr><th>Conviction</th><th>Sentence</th></tr><tr><td>Under Section 354 of Indian Penal Code read with 3(2)(va) of the Scheduled Castes and Scheduled</td><td>Rigorous Imprisonment for two years and fine of Rs.2,000/-, in default of</td></tr></table>	Conviction	Sentence	Under Section 354 of Indian Penal Code read with 3(2)(va) of the Scheduled Castes and Scheduled	Rigorous Imprisonment for two years and fine of Rs.2,000/-, in default of	
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Tribes (Prevention of Atrocities) Act, 1989	payment of fine amount to undergo further rigorous imprisonment for three months
Under Section 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	Rigorous Imprisonment for one year and fine of Rs.1,000/-, in default of payment of fine amount to undergo further rigorous imprisonment for three months

(Both sentences were directed to run concurrently)

Learned counsel for the appellant submits that the trial Court has not properly appreciated the overall evidence available on record for holding the appellant guilty. He submits that the father of the prosecutrix had borrowed Rs.10,000/- from the appellant and when the appellant demanded his money back, a false report has been lodged by the prosecutrix at the instance of her father. He further submits that there are major contradictions and omissions in the statements of the prosecution witnesses. The appellant was on bail during trial as also after passing of the impugned judgment for a limited period and did not misuse the liberty granted to him and disposal of the appeal is likely to take some time. Therefore, the appellant be released on bail.

On the other hand, learned counsel for State opposes the bail application.

Heard learned counsel for the parties.

Considering the facts and circumstances of the case, in particular the fact that the maximum sentence awarded to the

appellant is of two years, the fact that he was on bail during trial as well as after passing of the impugned judgment for a limited period and did not misuse the liberty granted to him and that disposal of the appeal is likely to take some time, without expressing any opinion on the merits of the case, I am of the opinion that present is a fit case to suspend the jail sentence imposed upon the appellant and to release him on bail.

Accordingly, the application (I.A. No.01 of 2021) is allowed.

It is directed that the execution of substantive jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on his furnishing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the trial Court. He shall appear before the trial Court on **22.04.2021** and thereafter continue to appear there on all such dates as are given to him by the said Court till disposal of this appeal.

Sd/-
(Gautam Chourdiya)
Judge