

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 559 of 2018

- Akash Nirmalkar, aged about 22 years, son of Shri Vishnu Nirmalkar, R/o Village- Temri, Ekta Nagar, P. S.- Mana Camp, Distt.-Raipur (Chhattisgarh).

----Appellant

Versus

- State Of Chhattisgarh Through P.S.- Mana Camp, Raipur, District- Raipur (Chhattisgarh).

-----Respondent

23/07/2018	Shri Pushpendra Kumar Patel, counsel for the Appellant. Shri Ravindra Agrawal, G. A. for the State. Heard on I.A. No. 01/2018, application for suspension of sentence and grant of bail to the appellant. By the impugned judgement dated 02.04.2018 passed by the Special Judge Scheduled Caste & Scheduled Tribe(Prevention of Atrocities) Act, 1989, Raipur, District- Raipur (C.G) in Special Case (Atrocities) No.-142/2016, the appellant stands convicted under Sections 363, 366, 376 of IPC and Section 3(2) (v) of the Scheduled Casts & Scheduled Tribes(Prevention of Atrocities) Act, 1989 sentenced him as under: <table><tr><th>Sr. No.</th><th>Offence U/S</th><th>Sentences</th></tr><tr><td>1.</td><td>Section 363 of Indian Penal Code</td><td>02 years rigorous imprisonment and fine of Rs. 500/-, in default, 01 month rigorous imprisonment.</td></tr><tr><td>2.</td><td>Section 366 of Indian Penal Code</td><td>03 years rigorous imprisonment and fine of Rs. 1000/- in default 02 months additional rigorous imprisonment.</td></tr><tr><td>3.</td><td>Section 376 of Indian Penal Code</td><td>07 years rigorous imprisonment and fine of Rs. 1000/-, in default, 02 months additional rigorous</td></tr></table>		Sr. No.	Offence U/S	Sentences	1.	Section 363 of Indian Penal Code	02 years rigorous imprisonment and fine of Rs. 500/-, in default, 01 month rigorous imprisonment.	2.	Section 366 of Indian Penal Code	03 years rigorous imprisonment and fine of Rs. 1000/- in default 02 months additional rigorous imprisonment.	3.	Section 376 of Indian Penal Code	07 years rigorous imprisonment and fine of Rs. 1000/-, in default, 02 months additional rigorous
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		imprisonment.
4.	Section 3(2)(v) of the Scheduled Caste, Scheduled Tribe (Prevention of Atrocities) Act, 1989	Life imprisonment and fine of Rs. 1000/- in default, 02 months rigorous imprisonment.
Counsel for the appellant submits that the prosecutrix is a consenting party, she accompanied the appellant of her own without offering any protest. It has been further argued by learned counsel for the appellant that the appellant and the prosecutrix have performed marriage and they were living happily but unfortunately on the report of father of the prosecutrix, the appellant has been arrested. Learned counsel for the appellant also submits that there is no clinching evidence showing the prosecutrix to be minor. On the other hand, State counsel opposes the bail application. Considering the nature of evidence adduced by the prosecution, in particular the conduct of the prosecutrix and the evidence related to her age, without further commenting on merit, we are of the opinion that present is a fit case to suspend the jail sentences imposed upon the appellant and to release him on bail. Accordingly, the application (I.A.No.01/2018) is allowed. It is directed that the sentences 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 in the sum of Rs. 50,000/- with one surety in like sum to the satisfaction of the trial Court. The appellant need not give appearance anywhere until and unless otherwise directed. Sd/- (Pritinker Diwaker) Judge Sd/- (Gautam Chourdiya) Judge		