

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 680 of 2020

Rajendra Prasad Gupta S/o Late Jagdish Prasad Gupta, aged about 44 years, R/o Main Road Balrampur, Thana/District: Balrampur-Ramanujganj Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Ajak, Balrampur, District: Balrampur-Ramanujganj Chhattisgarh.

---- Respondent

For Appellant	: Mr. Tarendra Kumar Jha, Advocate.
For Respondent/State	: Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment On Board

03.11.2020

1. This appeal has been preferred under Section 14(A)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against impugned order dated 03.09.2020 passed by learned Special Judge, Atrocities, District: Balrampur (C.G.) in Bail Application No.382/2020, whereby the Trial Court has rejected anticipatory bail application of the appellant preferred under Section 438 of Cr.P.C. which relates to Crime Number: 43/2020, registered at Police Station: AJAK, Balrampur, District: Balrampur-Ramanujganj (C.G.) for the offence punishable under Sections 363, 366, 370 (2), 371, 376 & 34 of IPC and Section 3 (2) (V) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. In this case prosecutrix is a married lady. According to the case of prosecution, husband of the prosecutrix namely Nagendra Ravi, on 05.07.2019, made a report to the effect that his wife has left home saying she is going to her parental home, but till date there was no trace of her. On the basis of said, report of the prosecutrix was registered. During course of investigation, prosecutrix was recovered from the custody of co-accused Sonu Kushwaha, who was the resident of Village Baghogpur, District: Gwalior (M.P.). On being inquired, Sonu Kushwaha disclosed that Jitu Rana handed over the prosecutrix to him and in lieu thereof he paid Rs.1,20,000/- to him. Allegations against the present Appellant is that, he along with another co-accused Sushila Kashyap taken the prosecutrix in car from Balrampur to Ambikapur Railway Station and handed over her to accused Sonu Kushwaha who then took her to Gwalior (M.P.). On the basis of said, police has registered the FIR against the present Appellant. Thereafter, he filed an application under Section 438 of Cr.P.C. before learned Special Judge, Atrocities, Balrampur, District: Balrampur-Ramanujganj (C.G.) and the said has been rejected by the learned Special Judge vide order dated 03.09.2020. Hence, this appeal.

3. Learned Counsel appearing on behalf of the appellant submits that the appellant is innocent. Virtually, Jitu Rana was working with the Appellant as Khalasi, before this incident, he had left the job. The Appellant and prosecutrix didn't knew each other from beginning, therefore, offence related to atrocities is not made out against the Appellant. The allegations against the Appellant is that, he took the prosecutrix in Car from Balrampur to Ambikapur Railway Station. If

the said act has been done by the Appellant, then some or the other person could have seen him. He further submits that the prosecutrix reached in Gwalior through train and resided there for 1 ½ years, therefore, other offence regarding abduction and human trafficking is also not made out against the Appellant, therefore, the entire story narrated by the prosecution is suspicious and not reliable. Learned counsel lastly submits that, charge-sheet has not yet been filed, therefore, it is prayed that the Appellant may be released on bail.

4. Per contra, learned counsel appearing on behalf of the State opposes the appeal.
5. On the last date of hearing i.e. on 28.10.2020 prosecutrix has appeared through Video Conferencing from District Legal Services Authority, Balrampur (C.G.). She was identified by the local counsel namely Mr. Pramod Kashyap. On being asked, complainant/victim of the case objected the bail application.
6. I have heard learned Counsel for the parties and perused the material available.
7. Considering the facts and circumstances of the case, particularly considering the fact that from the perusal of the contents of FIR and other material, it appears that prosecutrix is a major lady, initially missing report of prosecutrix was lodged and thereafter, the prosecutrix was recovered after 1 ½ year. From the material, it also appears that Appellant and the prosecutrix didn't know each other from the beginning therefore, offence related to atrocities is not made out against the Appellant. Regarding other offence, the prosecutrix

resided in Gwalior (M.P.) for 1 ½ years and thereafter she was recovered from another person, therefore other offence is also not made out, without further commenting on other merits of the case, I am inclined to release the appellant on bail.

8. Accordingly, the appeal is allowed. The impugned order is set-aside.
9. It is directed that the appellant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge