

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No.790 of 2020

Piyush Tiwari S/o Basant Tiwari Aged About 32 Years R/o New Colony,
Tikrapara, Police Station Tikrapara, District Raipur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through S.H.O. Police Station Kotwali, Raipur ,
District Raipur Chhattisgarh
2. Priyanka Lahre W/o Atul Rathore R/o 55, Amaltas Colony, Narmada Nagar,
Police Station Civil Line, Bilaspur Chhattisgarh

---- Respondents

For Appellant	:	Shri Ravindra Sharma, Advocate
For Respondent/State	:	Smt. Hamida Siddiqui, Dy. AG.
For Respondent No.2	:	Shri Dharmesh Shrivastava, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order

03/12/2020

Heard.

1. The appellant is apprehending his arrest in connection with Crime No.5/2020 registered at police station – City Kotwali, District Raipur (C.G.) for alleged commission of offence under Section 376, 384, 420 of IPC and Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').
2. Earlier under the aforesaid crime number, offences under Section 376, 384, 420 IPC were registered against the present appellant. The appellant filed an application for grant of anticipatory bail before the Sessions judge which was rejected. Thereafter, the appellant moved an application for grant of anticipatory bail before this Court in M.Cr.C.A No.201 of 2020. Vide order dated 24.06.2020, this Court rejected the anticipatory bail application upon consideration of material collected by the police against the present appellant.
3. Later on, under the same crime number, offences under Section 3(2) (va) of

the Act of 1989 was also added. The appellant again moved an application for grant of anticipatory bail, now before the Special Judge, Atrocities Raipur. That application was rejected on 30.09.2020 taking into consideration that anticipatory bail filed by the appellant under the same crime number was earlier rejected and the Supreme Court also rejected the Special Leave Petition against the order of rejection passed by the High Court. Now the appellant has filed this criminal appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 aggrieved by order dated 30.09.2020 passed by the Special Judge (Atrocities) Raipur rejecting bail application.

4. Earlier bail application of the appellant was rejected by this Court vide order dated 24.06.2020 in M.Cr.C.A. No.201 of 2020 after detailed consideration of material collected by concerned Police Station with following observations :

“6. In the present case, it is found that the applicant has lodged number of cases against the prosecutrix, her father, husband and brother. From the report lodged by the applicant as well as by the prosecutrix, it is prima facie revealed that prior to marriage of the prosecutrix with Atul Rathore on 19.04.2018, there were relation between the applicant and prosecutrix. However, the prosecutrix's allegation is that even after her marriage with Atul Rathore, the applicant has been insisting on her to continue to have relation. The allegation of the prosecutrix of she having been subjected to rape on 25.10.2019 in a hotel by the applicant is in the background that on that day, when she had gone to meet her father, brother and husband in the police station and then in jail, she met with the applicant and then the applicant brought her to the hotel and stated that if she does not act according to his wishes, her father, husband and brother would remain in jail. Therefore, the prosecutrix's allegation that the sexual intercourse with her on 25.10.2019 was an act of exploitation by the applicant cannot be said to be totally without any basis. Moreover, large number of criminal cases were registered against the applicant, though in most of the cases, the applicant has been acquitted, as argued by learned counsel for the applicant. Even though, number of criminal cases are still pending against the applicant. The allegations against the applicant of harassing, sexually exploiting the prosecutrix and also allegation of extortion and cheating. Therefore, in the totality of the circumstances, present is not a fit case for grant of anticipatory bail. The application is, therefore, rejected.”

5. Now in this round of proceeding brought to this Court in the form of an appeal against rejection order because of addition of Section 3(2) (va) of the Act of 1989 mainly on the submission that when this Court had rejected earlier application for grant of anticipatory bail, on 24.06.2020, neither it was

in the notice and knowledge nor the State produced for perusal of the Court a memo dated 17.06.2020 of Police Headquarter C.G. (Annexure A/8) and memo dated 20.05.2020 of Police Station of Station House Officer, Police Station Kumhari, Dist. Durg (Annexure A/9).

6. Referring to this document, learned counsel for the appellant would submit that these enquiries made by Police Headquarter and Police Station Kumhari would prima facie reveal that the entire allegation against the present appellant are false accusation because the present appellant had lodged criminal cases against the prosecutrix and the prosecutrix in order to save herself lodged false report under present Crime No.5 of 2020.
7. On the other hand, learned counsel for the State would submit that this Court had examined the case diary record of Crime No.5 of 2020 and by detailed order, the application was rejected. The appellant had filed SLP before the Supreme Court that was also rejected, therefore, only, because certain other enquiries have been made, the appellant is not entitled to grant of anticipatory bail in such a serious matter where the allegation is of commission of offence against the prosecutrix belonging to scheduled caste.
8. This Court had elaborately considered the entire case of the present appellant and no case was made out for grant of anticipatory bail, therefore, the earlier bail application was rejected on 24.06.2020. The two reports which have been relied upon by the appellant, appear to be a outcome of certain complaints made by the appellant to different authorities and then certain factual enquiry made in this matter. These enquiries are not the part of the investigation carried out by the police of Police Station City Kotwali where the present crime is registered. This Court had taken into consideration various attending circumstances as observed in para 6 of its earlier order. Moreover, Special Leave Petition against the order passed by this Court was also rejected. Therefore, in these circumstances, I am not inclined to grant anticipatory bail to the appellant. The application is therefore rejected.
9. The present appeal is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge