

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 32 of 2021

- Smt. Savita, W/o Bhuneshwar, Aged about- 33 years, R/o- Village Silfili, Police Station Pratappur, Tahsil Pratappur, District-Surajpur (C.G.) ---- **Appellant**

Versus

- State of Chhattisgarh, through : Station House Officer, Police Station Pratappur, District-Surajpur (C.G.) ---- **Respondent**

For Appellant : Shri Anil Gulati, Advocate

For Respondent/State : Dr.(Ms.) Veena Nair, Dy.A.G.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

16.02.2021

1. This appeal by the accused/appellant under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 17.12.2020 passed by the Special Judge (SC/ST Act), Surajpur (C.G.) in Crime No. 153/2020 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 313, 376 (2-N) read with Section 34 of IPC and Section 3 (2-5) and Section 3(2-5) of the SC/ST Act, registered at Police Station- Pratappur, District- Surajpur (C.G.). The appellant is in jail since 12.11.2020.
2. Case of the prosecution, in brief, is that on 10.12.2019, one of the co-accused in this case namely Om Prakash took the prosecutrix inside the jungle and made forcible physical relation with her on the pretext of marriage, later on, the prosecutrix was taken to new house of the co-accused namely Bhuneshwar Painkra, there the prosecutrix was being raped by Om Prakash, at that point of time, Bhuneshwar Painkra reached there and saw

them in objectionable state, Bhuneshwar Painkra threatened the prosecutrix to reveal the incident and made forcible sexual intercourse with the prosecutrix, as a result of which prosecutrix got pregnant, abortion pill was given to the prosecutrix by Om Prakash, some Herbal medicines were also given by Bhuneshwar Painkra to the prosecutrix for abortion, wife of Bhuneshwar namely Savita the present appellant took the prosecutrix to one lady namely Sachni Bai who conducted abortion of the prosecutrix.

3. Learned counsel for the applicant submits that the appellant is an innocent person, she is falsely roped in this case as she is the wife of co-accused Bhuneshwar Painkra. He further submits that neither in the FIR nor in 164 statement of the prosecutrix name of the present appellant is mentioned, the appellant belongs to the Scheduled Tribes category, therefore, offence under Section 3 (2-5) of ST/SC Act does not attract. The appellant is in jail since 12.11.2020, the appellant has no criminal antecedents, conclusion of the trial is likely to take some time, therefore, at this stage, she may be granted bail.
4. On the other hand, learned State Counsel opposes prayer for grant of bail and further submits that the appellant has no criminal antecedents.
5. Learned State counsel submits that prosecutrix is duly served with the notice but neither she is present in person nor is there any representation on her behalf.
6. Having considered the submission made by learned counsel for the parties, taking into consideration the nature of allegation against the appellant that she had only accompanied her husband/co-accused Bhuneshwar Painkra who took the prosecutrix to one lady for causing her abortion, detention period of the appellant, the fact that the appellant belongs to the same

category i.e. Scheduled Tribes, that the appellant has no criminal antecedents as admitted by both the counsel, there is no likelihood of the appellant tampering with the evidence or absconding and the fact that conclusion of the trial is likely to take some time, without commenting anything on merits of the case, the appeal is allowed.

7. It is directed that in the event of the appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs. 25,000/- each to the satisfaction of the concerned Trial Court, she shall be released on bail on following conditions:-

(a) she shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court.

(b) she shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) she shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

(d) she shall not involve herself in any offence of similar nature in future or else this order granting bail to the appellant shall automatically stand cancelled without further reference to the Bench.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of appellant involving herself in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge