

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceeding through Video Conferencing)

Criminal Appeal No. 517 of 2021

- Sachni Devi Wd/o Late Pawan Say Vishwakarma, aged about 65 years, R/o Village Silphili, Police Station Pratappur, Tahsil Pratappur, District – Surajpur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through : Station House Officer, Police of Police Station – Pratappur, District - Surajpur (C.G.)

---- Respondent/State

For Appellant : Shri Pravin Kumar Tulsyan, Advocate

For Respondent/State : Shri Adil Minhaz, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

27.08.2021

1. This appeal by the accused/appellant under Section 14(A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 17.03.2021 passed by the Special Judge (Atrocities), Surajpur, District Surajpur (C.G.) in Bail Application No. 128/2021, rejecting his regular bail under Section 439 Cr.P.C. The appellant is in jail since 12.11.2020 in connection with Crime No. 153/2020 for the offence punishable under Section 313, 376 (2) (n) read with Section 34 of IPC and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station- Pratappur, District Surajpur (C.G.).
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 by Om Prakash 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 she got pregnant. The abortion pill was given to her by Om Prakash, some Herbal medicines were also given by Bhuneshwar Painkra to her for abortion. Thereafter, wife of Bhuneshwar namely Savita (co-accused) took the prosecutrix to one lady namely Sachni Bai (present appellant herein) who conducted abortion of the prosecutrix.

3. Learned counsel for the appellant submits that the appellant is an innocent person, she is falsely roped in this case as she conducted the abortion of the prosecutrix. He further submits that neither in the FIR nor in 164 CrPC statement of the prosecutrix name of present appellant is mentioned. He also submits that the appellant has no criminal antecedents, the appellant is in jail since 12.11.2020, charge-sheet has been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail. He also submits that co-accused namely Smt. Savita has already been granted bail by this Court vide order dated 16.02.2021 passed in Cr.A. No. 32 of 2021.
4. On the other hand, learned counsel for the State opposes the appeal and submits that the appellant has no criminal antecedents.
5. Prosecutrix is connected through video conferencing from District Legal Services Authority, Surajpur and she was identified by an employee of DLSA, Surajpur. The prosecutrix stated that she has objection to grant of bail to the appellant by this Court.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the nature of allegation made against the appellant is that only she conducted abortion of the

prosecutrix, she is in jail since 12.11.2020, charge-sheet has already been filed, conclusion of the trial is likely to take some time, the appellant has no criminal antecedents as admitted by both the counsel, further that co-accused has already been granted bail by this Court, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is allowed and the impugned order is set aside.

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

- i. 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.
- ii. she shall not act in any manner which will be prejudicial to fair and expeditious trial.
- iii. she shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.
- iv. she shall not involve herself in any offence of similar nature in future.
- v. she shall strictly follow the Covid-19 protocol issued by the Central Govt./State Govt./Local Authority.

Sd/-
(Gautam Chourdiya)
Judge