

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 711 of 2021

- Salim Mohammad son of Bhawru Khan, aged about 36 years, Caste – Musalman, R/o 76, Adarsh Nagar Chauraha, Harsaur, Tahsil – Dengana, District Nagor (Rajasthan)

---- Appellant

Versus

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

---- State/Respondent

And

Criminal Appeal No. 750 of 2021

- Jagdish Prasad Mali S/o Sugna Ram Mali, aged about 34 years, Occupation – Confectioner R/o Near Higher Secondary School, Harsar, Naagor, Harsaur, District Naagaor (Rajasthan)

---- Appellant

Versus

- State of Chhattisgarh, through the O.P. Tumdibod, Police Station Lalbabh Rajnandgaon, District Rajnandgaon (C.G.)

---- State/Respondent

For Appellant	:	Shri B.P. Singh, Advocate appears in Cr.A. No. 711/2021
For Appellant	:	Shri S.S. Baghel, Advocate appears in Cr.A. No. 750/2021
For Respondent /State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

10.08.2021

1. The appeal (Cr.A. No. 711/2021) by accused/appellant Salim Mohanmad under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 10.06.2021 passed by the Additional Sessions Judge (FTC), District Rajnandgaon (C.G.) in Bail Application No. 343/2021, rejecting his regular bail under Section 439 Cr.P.C.

2. The appeal (Cr.A. No. 750/2021) by accused/appellant Jagdish Prasad Mali under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 26.06.2021 passed by the Sessions Judge for Special Judge (Atrocities Act), District Rajnandgaon (C.G.) in Special Criminal Case No. 23/2021, rejecting his regular bail under Section 439 Cr.P.C.
3. As above both the appeals preferred by the respective appellants arise out of the same Crime Number i.e. 104/2021 registered in Police - Out Post Tumdibod/Police Station Lalbagh, District Rajnandgaon (CG) for the offence punishable under Sections 365, 366, 368, 370, 376 & 493 of IPC and Section 3 (2) (v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against both the appellants, they are being disposed of by this common judgment.
4. As per prosecution case, co-accused Laxmi Singh enticed the prosecutrix to accompany her in connection with catering work at Rajasthan and took her in a white coloured Innova Car bearing registration No. RJ-14-TB-7459, of which appellant Salim Mohammad was the driver & owner. After reaching Bhilai on 12.02.2021, co-accused Laxmi Singh alongwith another co-accused Jagdish Prasad Mali (appellant in Cr.A. No. 750/2021) and another person took the prosecutrix to Jaipur where they forcibly married the prosecutrix with one Manish Kumar in temple. Co-accused- Laxmi Singh and Jagdish Prasad Mali in fact sold the prosecutrix to Manish Kumar for Rs.2 lacs. Manish Kumar thereafter performed forcible sexual intercourse with the prosecutrix.
5. As per State counsel, notices have been served upon the prosecutrix in both the appeals, but neither the prosecutrix is present nor is there any representation on her behalf.
6. Shri S.S. Baghel, learned counsel appearing on behalf of appellant Jagdish

Prasad Mali i.e. Cr.A. No. 750/2021, seeks to withdraw this appeal with liberty to file a fresh appeal as and when occasion arises.

7. Accordingly, the appeal (Cr.A. No. 750/2021) is dismissed as withdrawn with the liberty as stated above.
8. Certified copy of the impugned order of the trial Court be returned to the counsel for the appellant after retaining the photocopy of the same.
9. Now this Court considers the appeal on behalf of appellant Salim Mohammad i.e. Cr.A. No. 711/2021.
10. Shri B.P. Singh, learned counsel appearing on behalf of appellant Salim Mohammad, submits that the appellant is innocent person, has been falsely implicated in this case. He further submits that as per Annexure-A/2, filed in present appeal, co-accused – Manish Kumar and Jagdish Prasad Mali booked the said vehicle from Mansi Travels and the appellant being a driver and owner of the said vehicle, drove the vehicle after receiving Rs.39,850 from them. He submits that the appellant is in jail since 17.04.2021 and conclusion of the trial is likely to take some time, therefore, the present appellant be released on bail.
11. Learned counsel for the State opposing the submission made by the appellant's counsel submits that the trial Court has rightly rejected the bail application of the appellant and there is no illegality or infirmity in the same warranting interference by this Court.
12. Heard learned counsel for the parties.
13. Considering the facts and circumstances of the case, the fact that no specific allegation has been made against the appellant that he was involved in the crime in question, the detention period of the appellant who is 36 years old, conclusion of the trial is likely to take some time and there is no apprehension of the appellant tampering with the evidence or absconding, 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 (Cr.A. No. 711/2021) is allowed.

14. It is directed that in the event of appellant Salim Mohammad executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- i. he 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. he shall not act in any manner which will be prejudicial to fair and expeditious trial.
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- iv. he shall not involve himself in any offence of similar nature in future.

15. In the result, Cr.A. No. 711/2021 is allowed on the above terms and conditions whereas Cr.A. No. 750/2021 dismissed as withdrawn with the aforesaid liberty as prayed for.

Sd/-

(Gautam Chourdiya)
Judge