NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 798 of 2020

1. Roshan Ghasi, S/o Lalan Ghasi, Aged About 21 Years,

2. Anushra, S/o Sadan Ram (wrongly Mmetioned in order as Sadas Ram) Aged about 20 Years, R/o Chirga, Navapara, Police Station Lundra, District- Surguja, Chhattisgarh. **---- Appellants**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station Mahila Thana Ambikapur, District- Surguja, Chhattisgarh.

---- Respondent

For Appellants : Mr. Rahul Agrawal, Advocate

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

For Objector : Mr. D. N. Prajapati, Advocate

Hon'ble Shri Justice Gautam Chourdiya

Judgment on Board

16.09.2021

1. The appellants have preferred this appeal under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 05.12.2019 passed by the Special Judge (Atrocities) Surguja Ambikapur (C.G.) in Special Session Trial No. 03/2020, rejecting their regular bail application under Section 439 of Cr.P.C., the applicant are arrested on 14.11.2019 in connection with Crime No. 61/2019, registered at Police Station- Mahila Thana Ambikapur, District- Surguja (C.G.) for the offence punishable under Sections 376 (D), 323, 34 of IPC and Sections 3 (2-5) of SC/ST Act.

2. Case of the prosecution, in brief, is that in the night intervening 01-02/11/2019 when the prosecutrix was in the house of her

mother-in-law Phoolmatiya, she woke up for toilet and went outside of home where the present appellants alongwith other co-accused persons were present. Accused Chanthu with another co-accused took the prosecutrix on motorcycle towards Navapara where accused Chantu took her near Mahua tree beside road and committed forcible sexual intercourse with her thereafter one by one other co-accused persons committed rape on her and fled away. As a result of which, the prosecutrix got unconscious for some time, after regaining consciousness, she returned to her grandmother's house and told her entire story.

3. Learned counsel for the appellants submits that the appellants have been falsely implicated in the case. He further submits that there is inordinate delay in lodging of FIR, incident took place on 02.11.2019 and matter was reported on 10.11.2019. Witnesses have been examined including the prosecutrix but name of the appellants was not disclosed by them and as per medical report no external-internal injury was found on the body of the prosecutrix. The appellants have no criminal antecedents, there is no likelihood of their tampering with the prosecution evidence or absconding. The appellants are in jail since 14.11.2019, charge-sheet has already been filed and due to COVID-19 conclusion of the trial is likely to take some time for disposal, therefore, he may be granted bail.

4. On the other hand, learned State counsel opposes prayer for grant of bail and submits that regular bail applications of co-accused persons namely Jugnu Ghansi & Chanthu @ Sukheshwar Vishwakarma have already been rejected on merits by the co-ordinate Bench vide orders dated 11.08.2020 & 27.08.2020 passed in MCRC Nos. 1030/2020 & 268/2020 respectively.

5. Learned counsel for the objector vehemently opposes prayer for grant of bail.

6. Having heard learned counsel for the parties, having regard to the entire facts and circumstances of the case, the nature of allegation made against the present appellants that they subjected the prosecutrix to gang-rape, the evidence of the prosecutrix (PW/2), the fact the regular bail applications of co-accused persons namely Jugnu Ghansi & Chanthu @ Sukheshwar Vishwakarma have already been rejected on merits by the co-ordinate Bench, the other material collected by the investigating officer during investigation, without expressing anything on merits of the case, this Court finds no illegality or infirmity in the impugned order of the trial Court.

7. Accordingly, the appeal being without any substance is hereby dismissed. **Sd/-**

(Gautam Chourdiya)
Judge

Nadim