

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 888 of 2020**

- Harishchandra @ Hari Nishad S/o Chaman Lal Nishad, aged about 20 years, R/o Village Parsuli, P.S. Devri, District Balod (CG)

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Police Station- Daundi Lohara, District Balod (C.G.)

----State/Respondent

2. Sonuram Sivna S/o Devnath Singh, aged about 40 years, R/o Village Parsuli, P.S. Devri, District Balod (C.G.)

---- Informant/Respondent

For Appellant	: Shri Rakesh Pandey and Shri Abhishek Pandey, Advocates
For Respondent No.1/State	: Dr.(Ms.) Veena Nair, Deputy Advocate General
For Respondent No.2/Informant/ Objector	: Shri Samir Singh, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J**Judgment on Board****15.02.2021**

1. This appeal by the accused/appellant under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 15.06.2020 passed by the Special Judge (SC/ST Act), Balod, District Balod (C.G.) in Special Sessions Case No. 38/2020, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 08.03.2020 in connection with Crime No. 76/2020 for the offence punishable under Sections 376 & 302 of IPC and Section 3(2) (v) (a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station- Daundi Lohara, District Balod (C.G.).
2. Prosecution case in brief is that complainant informed the police that on 06.03.2020 at about 11:30 am, deceased was found dead in forest area of Village Kharkhara. Deceased was also subjected to forcible sexual intercourse. On such information, F.I.R. was registered against unknown

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person. Allegation against the accused/appellant is that on 06.03.2020 he called the deceased through mobile-phone, thereafter he alongwith deceased went by motorcycle and on the way at Doundi Lohara, he purchased the liquor. After purchasing the liquor, they went to Kharkhara Dam, the appellant consumed the liquor and committed forcible sexual intercourse with the deceased and thereafter he committed murder of the deceased by throttling her by means of scarf of the deceased.

3. Learned counsel for the appellant submits that the appellant is an innocent person, he has been falsely implicated in this case. He also submits that the appellant is in jail since 08.03.2020 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State as well as learned counsel for the objector oppose the bail.
5. Considering the facts and circumstances of the case, the material collected by the Investigating Officer, that in his memorandum statement the appellant stated that he was having affair with the deceased and wanted favour of the deceased for sexual intercourse, when she refused to sexual intercourse, he committed forcible sexual intercourse with the deceased and committed her murder by throttling by means of her scarf, and that as per postmortem report, cause of death of the deceased was asphyxia due to strangulation and death was homicidal in nature, without commenting anything on merits of the case, this Court is not inclined to release the appellant on bail. The order impugned of the trial Court rejecting the appellant's bail application does not suffer from any illegality or perversity. Accordingly, the present appeal being without any substance is hereby dismissed.

Sd/-

(Gautam Chourdiya)
Judge