

HIGH COURT OF CHHATTISGARH, BILASPURCRA No. 810 of 2020

- Kamlesh S/o Surendra Ghritlahre Aged About 19 Years R/o Village Amera , Thana Palari, District Baloda Bazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Appellant

Versus

- State of Chhattisgarh through Thana Palari , District Baloda Bazar Bhatapara Chhattisgarh.,

---- Respondent

For appellant	:	Mr. Samir Singh, Advocate
For respondent/State	:	Mr. Rakesh Sahu, Dy.G.A.
For Objector	:	Mr. Basant Kaiwart, Advocate along with objector Bhagvati Prasad Dhritlahare.

Hon'ble Shri Justice Gautam Chourdiya, J.**Judgment on Board**04-01-2021

1. The appellant has preferred this appeal under Section 14(A)(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the impugned order dated 6-8-2020 passed by learned Special Judge (POCSO) in Bail Application No. 41 of 2020, whereby the Special Judge has rejected bail application of the appellant preferred under Section 439 of Cr.P.C. which relates to Crime No. 288 of 2020, registered at Police Station Pallari, Baloda Bazar-Bhatapara (CG) for the offence punishable under Sections 363, 376, 376,

376-DA, 376-F, 341, 506, 354-A of IPC and Sections 4, 6 & 8 of the Protection of Children from Sexual Offences Act, 2012, Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 66-D and 67(A)(B) of the Information Technology Act, 2000.

2. The allegation against the present appellant is that he is a friend of the prosecutrix. Both appellant and prosecutrix had gone to forest area by motor-cycle and when they were wandering in forest area, at that time other eight accused persons stopped the motor-cycle, threatened them and thereafter they committed gang rape on prosecutrix, thus the complainant made a report to Police Station on the basis of which, the aforesaid offences have been registered against the appellant and he has been arrested on 30-7-2020. Thereafter, the appellant filed bail application under Section 439 of Cr.P.C., before the learned Special Judge (POCSO) Baloda Bazar (CG) and the said application has been rejected by the learned Special Judge vide impugned order dated 6-8-2020. Hence, this appeal.
3. Learned counsel for the appellant submits that present appellant has been falsely implicated in the crime in question. He is only friend of the prosecutrix. The only allegation against the present appellant is that he had gone to forest along with prosecutrix by motor-cycle and when they were wandering in forest area, at that time other eight accused persons stopped

his vehicle and threatened them, thereafter he ran away from the spot. He would further submit that charge-sheet is filed and there is no allegation of gang rape against the present appellant. It is further submitted that the appellant is in custody since 30-7-2020 and conclusion of the trial is likely to take some time, therefore, it is prayed that the appellant may be released on bail.

4. Per contra, learned counsel for the State as well as counsel for the objector vehemently opposes the appeal.
5. I have heard learned counsel for the parties and perused the material available on record.
6. Perusal of the record shows that the only allegation against the present appellant is that he had gone to forest along with prosecutrix by motor-cycle and at that time other eight accused persons stopped his vehicle and threatened both the appellant and prosecutrix, thereafter he ran away from the spot. There is no allegation of gang rape against the present appellant.
7. Considering the facts and circumstances of the case, particularly considering the fact that there is no allegation of gang rape against the present appellant and further considering the fact that the appellant is in jail since 30-7-2020, without commenting on merits of the case, I am inclined to release the present appellant on bail.

8. Accordingly, the appeal is allowed. The impugned order dated 6-8-2020 passed by Special Judge, (POCSO), Baloda Bazar is set-aside. It is directed that the appellant shall be released on bail on his executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the trial Court for his appearance before the said Court as and when directed.
9. It is made clear that the appellant shall not involve himself 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.

Sd/-

(Gautam Chourdiya)

Judge

Raju