

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 959 of 2020

- Sonu Kushwaha, S/o Shri Phul Kushwaha, Aged About 30 Years, R/o Sindh Ki Chhawni Laxman Talaiya, P. S. Bhodapur, District Gwalior (M.P.)
---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Ajak Balrampur, District Balrampur-Ramanujganj Chhattisgarh. **---- Respondent**

For appellant : Shri Dheerendra Pandey, Advocate
For Respondent/State : Shri Vimlesh Bajpai, G.A.

Hon'ble Justice Shri Gautam Chourdiya

Judgment on Board

08.02.2021

1. This appeal by the accused/appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed against the order dated 05.11.2020 passed by the Special Judge (ST/SC Act) Ramanujganj, District- Balrampur-Ramanujganj (C.G.) in Crime No. 43/2020, refusing to allow his regular bail under Section 438 of Cr.P.C. for the offence punishable under Section 363, 366, 370 (2), 371, 376 & 34 of IPC and Section 3 (2) (V) of the SC/ST Act, registered at Police Station- AJAK Balrampur, District- Balrampur-Ramanujganj (C.G.).
2. Case of the prosecution, in brief, is that the prosecutrix was kidnapped by the Co-accused persons namely Rajendra Gupta and Sushila Kashyap, taken to Ambikapur Railway Station from Balrampur and handed over to Jitendra Singh Rana, who took the prosecutrix to Gwalior where Jitendra and Anita Kashyap handed her over to the present appellant/accused, in lieu thereof the present appellant paid Rs. 1,20,000/-. Thereafter, the present appellant had been establishing sexual intercourse repeatedly

with the prosecutrix by forcibly making her his wife.

3. Learned counsel for the appellant submits that the allegations against the appellant are false and fabricated, he is falsely implicated in the case. He submits that prosecutrix is a major married lady and she was recovered after more than one year from the date of incident i.e. 02.07.2019, main accused in this case namely Rajendra Prasad Gupta has already been granted bail by the co-ordinate Bench of this Court vide order dated 03.11.2020 in CRA No. 680 of 2020, that the appellant/accused has no criminal antecedents and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.
4. On the other hand, learned counsel for the respondent/State opposes prayer for grant of bail and submits that the appellant has no criminal antecedents.
5. Learned State counsel submits that prosecutrix was duly served with the notice and informed about the present proceedings. However, neither the prosecutrix is present in person nor is there any representation on her behalf. Photocopy of service report has been submitted today before this Court by the learned State counsel and the same is taken on record.
6. Considering the facts and circumstances of the case, particularly considering the contents of FIR and other material, it appears that the prosecutrix is a major lady, initially missing report of prosecutrix was lodged and thereafter the prosecutrix was recovered after more than one year from Gwalior (M.P.), the prosecutrix was resided with the appellant for about more than one year, she was allegedly taken from Balrampur to Ambikapur Railway Station and thereafter to Gwalior (M.P.) but at no point of time she raised hue and cry and made any complaint to anyone, co-accused person namely Rajendra Prasad Gupta has already been granted bail, detention period of the appellant, the fact that the appellant has no criminal antecedents as admitted by both

the counsel and conclusion of the trial is likely to take some time, therefore, the appeal filed by the appellant for grant of bail is allowed.

7. It is directed that in the event of the appellant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on following conditions:-

(a) 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.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he 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.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of appellant involving himself in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge