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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 964 of 2020

- Ashok Singh son of Rambilas Singh (wrongly mentioned in impugned rejection order as Rambelas Singh), aged about 48 years, Occupation – Agriculturist, Resident of Village Jhalariya, Police Station – Pasta, District Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through : the Police Station Pasta, District Balrampur-Ramanujganj (C.G.)

---- Respondent/State

And

Criminal Appeal No. 971 of 2020

- Hemnath Yadav S/o Rati Yadav, aged about 40 years, R/o Jhalriya, Police Station Pasta, District Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through : Station House Officer, Police of Police Station Pasta, District Balrampur-Ramanujganj (C.G.)

---- Respondent/State

For Appellant	:	Shri V.K. Pandey, Advocate appears in Cr.A. No. 964/2020
For Appellant	:	Shri T.K. Jha, Advocate appears in Cr.A. No. 971/2020
For Respondent/State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General
For Objector/ Complainant	:	Shri A.K. Yadav, Advocate

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

09.02.2021

- The appeal (Cr.A. No. 964/2020) by the accused/appellant Ashok Singh under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 25.07.2020 passed by the Additional Sessions Judge, Ramanujganj, District Balrampur-Ramanujganj (C.G.) in Bail Application No. 284/2020, refusing to

allow his regular bail under Section 439 Cr.P.C.

The appeal (Cr.A. No. 971/2020) by the accused/appellant Hemnath Yadav under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 25.11.2020 passed by the Special Judge (SC/ST Act), Ramanujganj, District Balrampur at Ramanujganj (C.G.) in Special Sessions Case (Atrocities) No. 42/2020, refusing to allow his regular bail under Section 439 Cr.P.C.

2. As above both the appeals preferred by the appellants arise out of the same Crime Number i.e. 36/2020 registered in Police Station- Pasta, District Balrampur-Ramanujganj (CG) for the offence punishable under Sections 450, 370 (2) (d) & 506 of IPC & Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against appellant Ashok Singh and offence punishable under Sections 450, 370 (d) & 506 of IPC & Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against appellant Hemnath Yadav, they are being disposed of by this common judgment.
3. Prosecution story in brief is that on 29.05.2019 at about 07-08 pm, when the prosecutrix was cooking food in her house, the present appellants entered her house for demanding liquor. When the prosecutrix denied to give them liquor, they committed rape with her one after another.
4. On 27.01.2021, prosecutrix and her husband appeared alongwith their counsel before this Court in person and they have no objection to grant of bail to the appellants by this Court.
5. Learned counsel for the appellants submit that due to political rivalry of the appellants with one Rajkumar, a village Sarpanch, who is uncle of the prosecutrix as admitted by her on 27.01.2021 before this Court, the appellants have been falsely implicated in the crime in question. They submit that after the arrest of Rajkumar and Kuldeep Yadav, their family members were threatening the appellants, therefore, the appellants and others made a

complaint dated 29.05.2020 (Annexure-A/3 in Cr.A. No. 971/2020) to the Superintendent of Police, Balrampur, District Balrampur-Ramanujganj. They also submit that as per medical report of the prosecutrix, no external injury was found on her body. They submit that the appellants are in jail since 21.07.2020 & 04.11.2020, charge-sheet has been filed and conclusion of the trial is likely to take some time. Therefore, the appellants be released on bail.

6. On the other hand, learned counsel for the State opposes the appeals and submits that both the appellants committed rape upon the prosecutrix, therefore, the learned trial Court rightly rejected the bail applications of the appellants.
7. I have heard learned counsel for the parties.
8. Considering the facts and circumstances of the case, the fact that after the arrest of Rajkumar and Kuldeep Yadav, their family members were threatening the appellants on which a complaint was made by the appellants to the Superintendent of Police, that there is political rivalry of the appellants with one Rajkumar, who is uncle of the prosecutrix as admitted by her on 27.01.2021 before this Court, she has no objection to grant of bail to the appellants, no external injury was found on the body of the prosecutrix, and that the appellants are in jail since 21.07.2020 & 04.11.2020, charge-sheet has already been filed, conclusion of the trial is likely to take some time, there is no apprehension of the appellants tampering with the evidence or absconding, without expressing any opinion on the merits of the case, this Court is of the opinion that present are the fit cases for grant of bail to the appellants. Accordingly, the appeals are allowed and the impugned orders are set aside.
9. It is directed that in the event of each of the appellants executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/- to the satisfaction of the concerned trial Court, they shall be released on bail on the

following conditions:-

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

10. In the result, both appeals are allowed on the above terms and conditions.

Sd/-

(Gautam Chourdiya)
Judge

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