

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1020 of 2020

1. Santosh Tande @ Ashwant Tande S/o Vidyasagar, Aged About 27 Years,
2. Vedram Patel S/o Bhaiyalal Patel, Aged About 29 Years,

Both are R/o Village Chivarra, Police Station Komakhan, Tehsil Baghbahra, District Mahasamund (C.G.).

----Appellants

Versus

1. State Of Chhattisgarh, Through Police Station Komakhan, District Mahasamund (C.G.).

---- Respondent

For Appellants : Mr. Shubhank Tiwari, Advocate.
For Respondent/State : Dr. (Ms.) Veena Nair, Dy. Advocate General

Hon'ble Justice Shri Gautam Chourdiya
Judgment On Board

08/02/2021

- 1) This appeal by the accused/appellants under **Section 14-A** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 11/11/2020 passed by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Mahasamund, District Mahasamund (C.G.), refusing to allow their regular bail under Section 439 Cr.P.C. The appellants are in jail since 07/11/2020 in connection with Crime No. 155/2019 for the offence punishable under Sections 458, 354(ख), 376(घ), 511, 34 of Indian Penal Code and under Section 3(1)(ब)(1), 3(2)(v) (as per application) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (As amended Act No. 1/2016) registered at Police Station Komakhan, District

Mahasamund(C.G.).

- 2) Case of the prosecution, in brief is that on 11/10/2019 at about 1-2 AM the prosecutrix was alone at her home when the appellants forcibly entered her home in drunken condition and demanded liquor from her. When the prosecutrix told them that she did not sell liquor, appellants closed the door, took her into bed room and attempted to commit rape upon her. However, at that time husband of the prosecutrix reached there and the appellants fled from the spot. On report being lodged to the above effect, offence under the aforesaid sections have been registered against the appellants.
- 3) Learned counsel for the appellant submits that the appellants are innocent person and have been falsely implicated in this case. He submits that the appellants are in jail since 07/11/2020, charge sheet already been filed and conclusion of the trial is likely to take some time. Therefore, the appellants be released on bail.
- 4) Learned counsel for the State opposing the submission made by the appellants' counsel submits that the trial Court has rightly rejected the bail application of the appellants and there is no illegality or infirmity in the same warranting interference by this Court.
- 5) Prosecutrix is present in person alongwith her husband Bedram Jangde and they have no objection to grant of bail to the appellants.
- 6) Heard learned counsel for the parties & perused the case dairy.
- 7) Considering the facts and circumstances of the case, the age of the prosecutrix i.e. 33-34 years and age of the appellants i.e 27 & 29 years, the statement of the prosecutrix before this Court is that due to quarrel of the appellants with her husband she lodged report against them and she has no objection to their release on bail, charge sheet has already been filed, trial has not

yet commenced due to COVID-19 Pandemic, there is no apprehension of the appellants' absconding or tampering with the evidence as admitted by the counsel for the parties and that conclusion of trial is likely to take some time, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellants. Accordingly, the appeal is **allowed**. It is directed that in the event **each** of the appellants executing a personal **bond** for a sum of **Rs. 1,00,000/- each** with two sureties of Rs. 50,000/- each 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, and
- 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.

-Sd/-
(Gautam Chourdiya)
Judge