

26.07.2023.
07.
Ct.No.28
as
(Allowed)

C.R.A. (DB) 218 of 2023

In Re:- A petition of appeal under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Sadaipur P. S. Case No.73 of 2023 dated 29.04.2023 under Sections 341/376 of the Indian Penal Code and under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and charge sheet submitted under Sections 341/376 of the Indian Penal Code and under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

In the matter of : Sk. Rahim.

.... Appellant.

Mr. Sujoy Sarkar.

...for the Appellant.

Mr. Binay Panda,

Ms. Puspita Saha.

...for the State.

Appellant submits victim was a major lady and the allegation of forcible rape is out and out false. Learned Judge failed to consider such fact and rejected his bail prayer. Hence, the present appeal.

Learned Advocate for the State submits victim is a member of scheduled caste and had been ravished.

Inspite of service, nobody appears for the victim.

We have considered the materials on record including the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. In the said statement, victim contended when she was rescued her husband started assaulting her. This unnatural conduct casts doubt with regard to the allegation of forcible sexual intercourse. On the other hand, it gives a hint of an illicit association which

suddenly came to light. This aspect requires to be thrashed out in the course of trial. Offence does not appear to have been committed on the ground that victim is a member of scheduled caste. Appellant is in custody for 89 days and investigation is complete. There is no chance of abscondence.

Hence, we are inclined to grant bail to the appellant.

Accordingly, the appellant viz., Sk. Rahim shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, Suri, Birbhum subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the appellant fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The appeal is, accordingly, allowed.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)