

22.01.2024.
16.
Ct.No.28
as
(Rejected)

C.R.A. (DB) 370 of 2023

In Re:- An appeal under Section 14A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act in connection with Special Case No.23 of 2023 arising out of Katwa P.S. Case No.74 of 2013 dated 03.03.2013 under Sections 342/450/376D/354/394/34 of the Indian Penal Code read with Section 23 of the Juvenile Justice Act read with Section 3/4 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and read with Section 7/8 of POCSO Act.

In the matter of : **Kumar Sk @ Sahidullah.**
... Appellant.

Mr. Sujan Chatterjee,
Mr. Sanat Kr. Das,
Mr. Rohan Bavishi,
Mr. S. Sinha.

...for the Appellant.

Mr. Debasis Roy, Id. P.P.,
Ms. Faria Hossain,
Mr. Goutam Banerjee.

...for the State.

1. Appellant contends he was on bail earlier and could not appear before the Court as he had been arrested in other cases. Accordingly, he prays for bail.

2. In view of the aforesaid submission, State was directed to submit report with regard to the period of detention suffered by the appellant in the present case and his involvement in other cases.

3. Report is placed on record. We have perused the materials on record including the report. From the report

it appears appellant was granted bail in November, 2013. Thereafter, he failed to appear before the Special Court and warrant of arrest came to be issued in July, 2014. Petitioner was arrested in other cases viz., Bolpur P.S. Case No.503 of 2014 dated 24.10.2014, Katwa P.S. Case No.10 of 2019 dated 07.01.2019 and Katwa P.S. Case No.31 of 2019 dated 17.01.2019. But he was not produced in the present case. Finally, he came to be produced in the present case in March, 2022.

4. From the aforesaid narration, it is clear that delay in the proceeding is due to abscondence of the appellant and the fact that he has been produced in other cases. Thus, delay does not lie at the doorstep of the prosecution.

5. Keeping in mind the conduct and the criminal antecedents of the appellant and gravity of offence involving gang rape of the victim, who is yet to be examined, we are not inclined to grant bail to the appellant.

6. Accordingly, the prayer for bail of appellant is rejected.

7. Hence, the appeal is dismissed.

8. Trial court is directed to take prompt steps for consideration of charge and in the event charge is framed to examine the victim at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)