

THE HIGH COURT OF MADHYA PRADESH

Cr.A. No.7449/2018

Indore, dated :15/11/2018

Shri S.A. Warsi, learned counsel for the appellant.

Shri Bhuwan Deshmukh, learned Public Prosecutor
for the respondent / State.

This repeat (second) appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (in short 'the Act') is directed against order dated 22/01/2018 rendered in Bail Application No. 26/2018, whereby the Special Judge, Dewas has declined the prayer for regular bail made on behalf of the appellant. First application of the appellant has been dismissed by this Court, vide order dated 02/05/2018 passed in Cr.A. No. 2805/2018.

The appellant has been arrested in connection with Crime No. 26/2018, registered at Police Station-Kannod, District-Dewas, for commission of the offences punishable under Sections 363, 366, 376(2)(n) and 376(2)(i)/34 of the IPC along with Sections 3 (2)(v) of the SC/ST (PA) Act, 1989 and Section 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012.

As per prosecution case, on 13/01/2018, the prosecutrix has lodged a report at Police-Station-Kannod, District-Dewas alleging that co-accused-Raja @ Ashiq took her to Ujjain and where he committed rape upon her. He took the prosecutrix at Ujjain in the house of Azhar and committed rape upon her.

Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present crime. Statement of the prosecutrix has already

been recorded before the trial Court on 05/09/2018, in which she has deposed that at the time of incident she was aged about 18 years and she had gone with the applicant out of her own will. In the court statement she has not stated anything against the appellant and turns hostile. Under these circumstances no alleged offence is made out against the appellant. The appellant is in custody since 19/01/2018. Conclusion of trial will take sufficient long time. Under these circumstances, learned counsel for the appellant prays for grant of bail to the appellant.

Learned counsel for the respondent/State opposed the appeal and prayed for its rejection.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, by setting aside the impugned order, the appeal is hereby allowed. The appellant is directed to be released on bail on her furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court for her regular appearance before the trial Court during trial with a condition that she shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437(3) Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.

skt

(S.K. Awasthi)
Judge

Cr.A. No. 7449/2018

Smt. Noor Fatma Bee Vs. State of M.P.