

IN THE HIGH COURT OF MADHYA PRADESH**AT INDORE****BEFORE****HON'BLE SHRI JUSTICE ANIL VERMA****ON THE 26th OF MAY, 2022****CRIMINAL APPEAL No. 4385 of 2022****Between:-****VISHNU RAJPUT S/O SHRI GORILAL RAJPUT , AGED ABOUT 21
YEARS, OCCUPATION: AGRICULTURE GRAM DULTARIYA PACHORE
(MADHYA PRADESH)****.....APPELLANT****(BY SHRI A.K. SAXENA, ADVOCATE)****AND**

- 1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION PACHORE (MADHYA PRADESH)**
- 2. VICTIM X THROUGH P.S. PACHORE (MADHYA PRADESH)**

.....RESPONDENTS**(BY SHRI RAJESH JOSHI, GA)**

This appeal coming on for admission this day, the court passed the following:

ORDER

Notice has been served to the prosecutrix, but nobody appeared on her behalf.

This (**first**) criminal appeal u/S. 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the order dated 05/05/2022 passed by Special Judge, Rajgarh in Bail Application no. 81/2022 in connection with Crime No.153/2022 registered at P.S.-Pachor, District-Rajgarh for

commission of offence u/S 366, 376, 506, 34 of the Indian Penal Code, 1860 and Sec. 3(1)(b) and 3(1)(5) of the Scheduled Caste /Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution story, on 16/03/2022 at about 8.00 pm at village- Dultariya, the victim was sitting before her house, at that time, present applicant came there and told her to come in the field of Ghisulal. When the prosecutrix reached there, present applicant committed rape upon her and also threatened that he would kill her brother, if she disclosed the incident to anyone. After some days, the prosecutrix lodged FIR. Accordingly, the aforesaid offence has been registered and he has been arrested.

Learned counsel for the appellant submits that the applicant is an innocent person and has been falsely implicated in this case. He is in custody since 04/04/2022. He is young boy of 21 years. The prosecutrix is a major, matured and married woman. The alleged FIR is 16 days belated and without any plausible explanation, no definite opinion can be given in MLC of the prosecutrix. Under these circumstances, learned counsel prays that the impugned order dated 05/05/2022 be set aside and the appellant be released on bail.

Per-contra, learned PL has opposed the appeal and prays for its rejection, however, he fairly admits that there is no criminal case found against the appellant.

Perused the impugned order passed by the trial Court as well as the case diary.

Considering the all the facts and circumstances of the case, nature and gravity of allegations as also the fact that the prosecutrix is a major, matured and married woman; present applicant filed so many copies of call details; the applicant and the prosecutrix were in love affair before her marriage; the appellant is in jail since 04/04/2022 investigation is over and therefore, no further custodial interrogation is required; possibility of delay in conclusion of the trial cannot be ruled out and in view of the evidence available on record,, I deem it proper to release the appellant on bail.

Accordingly, without commenting on the merits of the case, present criminal appeal is **allowed**. The impugned order dated 05/05/2022 passed by the learned Special Judge (SC & ST Act), Rajgarh is set aside and it is directed that the appellant shall be released on bail on his furnishing personal bond in the sum of **Rs.75,000/- (Rs. Seventy Five thousand)** with one solvent surety in the like amount to the satisfaction of the trial Court before the trial Court for his regular presence during trial. He will also abide by all the conditions enumerated u/S. 437(3) Cr.P.C.

Certified copy, as per Rules.

(ANIL VERMA)
VACATION JUDGE