

(2024) 01 RAJ CK 0111
In the Rajasthan High Court
Case No : Criminal Appeal (SB) No. 387 Of 1987

Lala @ Lalchand Rawat

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 22-01-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14(2)
Indian Penal Code, 1860 — Section 376

Citation : (2024) 01 RAJ CK 0111

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : Rakesh Matoria, Salim Khan Mehar, Devendra Sanwlot

Final Decision : Allowed

Judgement

Kuldeep Mathur, J

The instant appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been filed by the appellant against the order dated 5.12.2023 passed by learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Cases, Chittorgarh (Raj.) in Cr.Misc. Case No.203/2023, (CIS No.678/2023), whereby the second bail application filed by the appellant, who has been arrested in connection with FIR No.46/2023 registered at Police Station Dungla, District Chittorgarh, for offences under Sections 376 of IPC and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, has been rejected.

Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case. Learned counsel submitted that as per prosecution on 21.03.2023 the prosecutrix was subjected to sexual assault-rape by the present petitioner in a vehicle (Maruti Van) when she was returning back to her village Sureda at about 08:00 PM after having admitted her grandson in a hospital.

Learned counsel submitted that the petitioner has been falsely roped in a criminal case by the prosecutrix owing to some property disputes going on between the parties. Drawing attention of the Court towards the statements of the prosecutrix recorded before the competent criminal court as PW-2, learned counsel submitted that as per prosecutrix prior to committing rape, the petitioner had hit on her chest and had also beaten her. It was urged that it is highly improbable that if a mature lady is subjected to sexual assault in a vehicle (Maruti Van) and she is also beaten before the incident, still she would not receive any injuries. Learned counsel submitted that the statements of the Medical Officer Dr. Kiran have been recorded before the competent criminal court as PW-1, wherein she has deposed that during medical examination of the prosecutrix no visible injuries were found on her body.

Lastly, learned counsel submitted that the statements of the prosecutrix have already been recorded before the competent criminal court and therefore, now there is no apprehension of she being influenced by the petitioner. Learned counsel thus, submitted that the petitioner is in judicial custody; challan has already been filed and the trial of the case will take sufficiently long time, therefore, the benefit of bail should be granted to the accused-appellant.

Per contra, learned Public Prosecutor and learned counsel for the complainant have vehemently opposed the bail application.

Heard learned counsel for the appellant, learned Public Prosecutor and learned counsel for the complainant. Perused the material available on record.

Having considered the rival submissions, facts and circumstances of the case, challan papers, statements of PW-1 and PW-2 recorded before the competent criminal court, this Court prima facie finds that as per prosecutrix, petitioner subjected her to sexual assault-rape in a vehicle (Maruti Van) on 21.03.2023. As per prosecutrix, when she protested against the actions of the petitioner she was beaten by the petitioner. This Court prima facie finds that the Medical Officer Dr. Kiran PW-1 in her statements before the competent criminal court has deposed that she did not find any visible injury on the body of the prosecutrix. This Court also prima facie finds that since the statements of the material witnesses have already been recorded before the competent criminal court, now there is no apprehension of material witnesses of the case getting influenced by the present petitioner. Thus, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the appellant deserves to be enlarged on bail.

Accordingly, the appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is allowed. The order dated 5.12.2023 passed by learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Cases, Chittorgarh (Raj.) is set aside and it is ordered that the accused-appellant- Lala @ Lalchand Rawat S/o Bagdi Ram Rawat shall be enlarged on bail in connection with FIR No.46/2023 registered at Police Station Dungla, District Chittorgarh, provided he furnishes a personal bond

in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to so.