

Madhya Pradesh High Court

Sonu Dhakad vs The State Of Madhya Pradesh on 4 June, 2021

Author: Rajendra Kumar Srivastava

1

The High Court Of Madhya Pradesh

CRA-2541-2021

(SONU DHAKAD Vs THE STATE OF MADHYA PRADESH)

3

Jabalpur, Dated : 04-06-2021

Heard through Video Conferencing.

Shri S.B. Shrivastava, Advocate for the appellant

Shri Prashant Mishra, P.L. for the respondent

Shri Bhaskar Pandey, Advocate for Victim-X/complainant. This appeal has been filed by the appellant under Section 14-A of SC/ST (Prevention of Atrocities) Act, 1989 against the order dated 19.03.2021 passed by Special Judge, SC/ST (Atrocities) Act, Raisen in B.A. No. 147/2021 whereby application filed for grant of bail to the appellant has been dismissed.

The appellant is in custody since 17.02.2021 in connection with Crime No. 59/2020 registered at Police Station-Bamhori, Distt.-Raisen (M.P.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Section 5L/6 of POCSO Act and Section 3(2)(v-a) of SC/ST Act, 1989.

As per prosecution on dated 17.06.2020, prosecutrix aged 16 years one month was missing from her house. She was searched but not found. Thereafter, FIR was lodged. On 17.02.2021 prosecutrix was recovered from the possession of applicant/accused. It is alleged by the prosecution that appellant-accused kidnapped and took her at various places. Thereafter, applicant/accused committed intercourse with her.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. At the time of incident, prosecutrix was above 18 years old and appellant-accused is 23 years old. Both loved each other but parents of prosecutrix were not ready to accept their relation so prosecutrix voluntarily came to the appellant. Thereafter, they Signature Not Verified SAN Digitally signed by ROSHNI SINGH PATEL Date: 2021.06.04 17:11:39 IST 2 CRA-2541-2021 ran away and were residing as husband and wife but prosecutrix was recovered. Thereafter, prosecutrix was pressurized to give false statement against the applicant/accused. During the investigation, the statement of prosecutrix was recorded under Section 164 of Cr.P.C. She stated that she wants to solemnize marriage with applicant/accused and also wants to reside with him. She has no objection to grant bail to applicant/accused. Appellant-accused is in custody since 17.02.2021. Charge-sheet has been filed. It is the time of COVID-19 pandemic due to which conclusion of trial will take time for final disposal. There is no probability of his absconding or tampering with the prosecution witnesses. Appellant has no previous criminal antecedent. On these grounds, learned counsel for the appellant prays for grant of bail to the appellant.

Per-contra, learned Panel Lawyer opposes the bail application. Learned counsel for the complainant submits that complainant attained the age of discretion, she is above 18 years. Prosecutrix and applicant loved each other and they want to solemnize marriage with each other. Prosecutrix has no objection to grant bail to applicant/accused.

Considering the contention of both the parties, circumstances of the case and the the age of prosecutrix is disputed, appellant-accused is 23 years old, so it appears that it is a matter of love affair, appellant- accused is in custody since 17.02.2021, charge-sheet has been filed, it is the time of COVID-19 due to this conclusion of trial will take time for final disposal, there is no probability of his absconding or tampering with the prosecution evidence, so in view of this Court, it would not be appropriate to keep the appellant in jail during whole trial, therefore without commenting on merits of the case, appeal of the appellant under Signature Not Verified SAN Section 14-A(1) of SC/ST (Prevention of Atrocities) Act, 1989, seems to Digitally signed by ROSHNI SINGH PATEL Date: 2021.06.04 17:11:39 IST 3 CRA-2541-2021 be acceptable. Consequently, it is hereby allowed. The order dated 03.12.2020 passed by Special Judge SC/ST (Atrocities) Act in B.A. No.1684/2020 is hereby set-aside.

It is directed that accused/appellant-Sonu Dhakad be released on bail on his furnishing bail bond in the sum of Rs.50,000/-(Rupees Fifty Thousand Only) with one solvent surety in the same like amount to the satisfaction of the JMFC concerned or trial Court for his appearance before the trial Court.

In view of the outbreak of 'Corona Virus disease (COVID-19)' the appellant shall also comply the rules and norms of social distancing. Further, in view of the order passed by the Hon'ble Supreme Court in suo moto W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority:-

1. The Jail Authority shall ensure the medical examination of the appellant by the jail doctor before his release.
- 2 . The appellant shall not be released if he is suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.
- 3 . If it is found that the appellant is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.

Certified copy as per rules.

Appeal is allowed and disposed of accordingly. Learned Panel Lawyer is directed to provide the copy of this order to the victim.

(RAJENDRA KUMAR SRIVASTAVA) V. JUDGE R Signature Not Verified SAN Digitally signed by ROSHNI SINGH PATEL Date: 2021.06.04 17:11:39 IST