

THE HIGH COURT OF MADHYA PRADESH**Cr.A. No.8509/2018****Indore, dated :30/11/2018**

Shri S.I. Ansari, learned counsel for the appellant.

Shri Rajesh Joshi, learned Public Prosecutor for the respondent / State.

Shri M.I. Ansari, learned counsel for the respondent No.2/complainant.

This first 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 29/10/2018 rendered in Bail Application No. 50991/2018, whereby the Special Judge, Indore has declined the prayer for regular bail made on behalf of the appellant.

The appellant has been arrested in connection with Crime No. 349/2018, registered at Police Station-Raoji Bazar, District-Indore, for commission of the offences punishable under Sections 366 and 376(2)(n) of the IPC alongwith Sections 3(1), 3(6) and 3(2)(V) of the SC/ST (PA) Act, 1989.

As per prosecution case, On 18/06/2018 at about 5:00 p.m., the applicant called the prosecutrix and on the pretext of marriage he took her to the house of his uncle Anna @ Zakir and committed rape upon her and thereafter, he took her to aunt's house and kept there for 2 days and during this period, he committed rape upon her. On 21/06/2018, the applicant dropped the prosecutrix to her house and threatened her that if she told the incident to anyone then he would kill her.

Learned counsel for the appellant submits that the applicant is a youth of aged about 20 years and he has not committed any offence. Prosecutrix is a major lady aged about 25 years and her statement has been recorded under Section 164 of the Cr.P.C., in which she has categorically deposed that

she had gone with the applicant with her own will and the applicant has made physical relations with her consent. It is further submitted that the prosecutrix has no grievance with the applicant and she does not want any action against him. The appellant is in custody since 27/10/2018. The appellant has not required for further interrogation. Conclusion of trial will take considerable 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.

Learned counsel for the respondent No.2 submits that he has no objection in allowing the bail to the applicant.

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 his 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 his regular appearance before the trial Court during trial with a condition that he 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.

**(S.K. Awasthi)
Judge**

skt

