

**Court No. - 78**

**Case :-** CRIMINAL APPEAL No. - 2329 of 2020

**Appellant :-** Chottey Singh

**Respondent :-** State of U.P. and Another

**Counsel for Appellant :-** Jitendra Prasad Mishra

**Counsel for Respondent :-** G.A.

**Hon'ble Raj Beer Singh,J.**

**Order on application for suspension of sentence and grant of bail under Section 389(1) Cr.P.C**

1. Heard learned counsel for the appellant and learned A.G.A. for the State and perused the record.
2. This application has been filed on behalf of the appellant-Chottey Singh for suspension of sentence and grant of bail during pendency of this appeal.
3. Appellant-Chottey Singh has been convicted under Sections 376, 323 of I.P.C., Section 6 of POCSO and Section 3(2)5 of SC/ST Act by the trial court and the maximum sentence awarded to the appellants is 20 years rigorous imprisonment along with fine.
4. Learned counsel for the appellant submits that the trial Court has not appreciated the evidence in correct perspective and there is no credible evidence against the appellant. It was submitted that neither the victim nor PW-2, who has allegedly reached at the spot, has named the applicant in their statement before the trial court. There is no evidence to fix the identity of the appellant. As both the material witnesses have not named the appellant, thus, the

involvement of the appellant is wholly doubtful. It is further submitted that appellant is languishing in jail since 12.08.2020 and in view of huge pendency of cases, there is no possibility of early hearing in the appeal and thus, in view of aforesaid facts and circumstances of the case, appellants may be granted bail.

5. Learned A.G.A. has opposed the application and submitted that victim is about 10 years old minor girl and her medical examination report clearly indicates that she was brutally ravished and this fact is further supported by F.S.L report. It is pointed out that the appellant was named in the first informant report and that the victim has stated that name of the offender was told as Chottey. The facts and circumstances of the case clearly indicate that it was appellant, who has committed the incident.

6. Considering the submission of learned counsel for the parties, nature of accusation and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that the appellant is not entitled to be released on bail during pendency of the appeal. Hence, the bail application under Section 389(1) Cr.P.C, is hereby **rejected**.

### **Order on Appeal**

7. Appeal be listed in the month of January, 2024.

**Order Date :- 11.10.2023**

Imtiyaz