

(2020) 09 MP CK 0014
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 4290 Of 2020

Abhishek Rajak

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 03-09-2020

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(5), 14A
Indian Penal Code, 1860 — Section 34, 201, 302, 394

Citation : (2020) 09 MP CK 0014

Hon'ble Judges : Mohd. Fahim Anwar, J

Bench : Single Bench

Advocate : Mahendra Singh, Sourabh Soni, Yuvraj Vaidya

Final Decision : Dismissed

Judgement

Heard on this third repeat appeal under Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 filed on behalf of the appellant in connection with Crime No.494/2018 registered at Police Station Chourai, District Chhindwara, for offences punishable under Sections 302/34, 394, and 201 of the Indian Penal Code and Section 3 (2) (5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Earlier Criminal Appeal No.8567/2018 was dismissed on merits vide order dated 30.11.2018 and Criminal Appeal No.7581/2019 was dismissed as withdrawn vide order dated 13.11.2019.

This appeal is directed against the order dated 29.07.2020 passed by the Court of Special Judge, Scheduled Caste/Scheduled Tribe (Prevention of Atrocities), Act, Chhindwara.

The case of the prosecution is that, on 11.08.2018 at about 10:00 am Deepak Javre had informed that a dead body of an unknown person was lying in village Ghodavadi near the field of Rajkishor, which was recovered from the spot and a

marg intimation had been recorded. During the course of investigation, appellant with other co-accused have been taken into custody. On their interrogation, they have admitted that they had called deceased on mobile phone to come with E-Rickshaw for going to Matradham and on the way appellant and co-accused inflicted injuries on the person of deceased by means of knife and stone. E-Rickshaw, mobile phone and other items belonging to the deceased were seized at the instance of the appellant. On that basis, FIR has been registered against the appellant and other co-accused.

Learned counsel for the appellant has submitted that he has not committed any offence and has falsely been implicated in the case. It is further submitted that the prosecution witnesses namely Rajendra Prasad (PW-1), Jyoti Dehariya (PW-2), Lekhram (PW-3), Rakesh Jain (PW-4), Suniya Bai (PW-6), Shivkumar Dehariya (PW-7) and Vineet (PW-8) have been examined before the trial Court and they have not supported the case of the prosecution. It is further submitted that the appellant has been in judicial custody since 14.08.2018. The appellant is a permanent resident of address described in application and there is no chance of his absconding or tampering with the prosecution witness. In view of the aforesaid, a prayer has been made to enlarge the appellant on regular bail.

Learned Government Advocate for the respondent No.1/State on the other hand has vehemently opposed the bail application. It is also submitted that prima-facie the appellant found involved in commission of such a serious crime of murder as the seizure of the looted articles have been made at the instance of the appellant. In view of the aforesaid, the appellant does not deserve to be enlarged on bail.

This is the third repeat appeal for regular bail under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Earlier appeals preferred by the appellant have already been dismissed. Learned counsel for the appellants have filed the statements of Rajendra Prasad (PW-1), Jyoti Dehariya (PW-2), Lekhram (PW-3), Rakesh Jain (PW-4), Suniya Bai (PW-6), Shivkumar Dehariya (PW-7) and Vineet (PW-8) ; however, there is no need to scrutinize the statements of examined prosecution witnesses as the same is required during the judgment. No substantial change in the circumstance seems to have taken place. Still with a view to satisfy the judicial mind, once again I have gone through the impugned order dated 29.07.2020 and evidence of witnesses particularly, the evidence of Rakesh Jain (PW-4) and Vineet (PW-8), after considering the same, I am of the view that no case is made out for grant of bail to the appellant.

However, keeping in view the facts and circumstances of the case in their entirety, in the opinion of this Court, the appellant does not deserve to be released on bail.

Consequently, this third repeat appeal for bail under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

stands dismissed.